

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 14, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett, and Lacey

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m.

INTRO-DUCTIONS: He introduced the Committee's newest member, **Senator Roy Lacey**, who is from Pocatello, and welcomed him to the Senate Resources and Environment Committee. **Chairman Pearce** also introduced and welcomed the Committee's Page, **Michael Swanson** from Rigby.

Chairman Pearce said the first order of business would be to introduce four RS's for printing and called on **Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG)**, to present them.

RS 21607 **Ms. Kiefer** said the purpose of RS 21607 is to revise provisions relating to disease research and to remove obsolete language in Section 36-107, Idaho Code. Moneys received from the sale of licenses, tags and permits are deposited in the account of the Fish and Game. Each year, by August 1, \$100,000 is transferred to the University of Idaho Caine Veterinary Teaching and Research Center and the state wildlife veterinarian for disease research regarding the interaction of disease between wildlife and domestic livestock. As there is no longer a state wildlife veterinarian, the money will instead go to the Director of the Department of Fish and Game.

MOTION: **Senator Siddoway** made the motion to send RS 21607 to be printed. The motion was seconded by **Vice Chairman Bair**. The motion **passed** unanimously by voice vote.

RS 21619 **Ms. Kiefer** stated that this legislation would exempt duplicate licenses and tags from set-aside account provisions of the dedicated Fish and Game Fund because the set-aside account provisions are met at the time of the original license or tag purchase. It would also exempt disabled combination and fishing licenses from the set-aside provision in Section 36-111(b), Idaho Code because a disproportionate amount of the disabled licenses, which are the lowest cost licenses, is directed to the set-aside account from other combination and fishing licenses. This would provide for broader use of these license funds to uphold disabled customer services.

MOTION: **Senator Cameron** made the motion to send RS 21619 to be printed. The motion was seconded by **Senator Stennett**. The motion **passed** unanimously by voice vote.

RS 21625 Currently, there are multiple junior and youth hunting licenses, which are confusing to customers. This legislation would consolidate the licenses currently available for young hunters. Current age limitations for hunting turkey and big game and existing mentor requirements would not be changed. **Ms. Kiefer** indicated there would be no fiscal impact to the general fund or to the dedicated Fish and Game Fund.

MOTION: **Senator Tippetts** made the motion to send RS 21625 to be printed. The motion was seconded by **Senator Heider**. The motion **passed** unanimously by voice vote.

RS 21630 **Ms. Kiefer** said RS 21630 is to provide for three year licenses, rather than purchasing annually. A license survey showed high interest by customers in a three year license costing three times the annual fee, with only one vendor issuance fee required.

MOTION: **Senator Brackett** made the motion to send RS 21630 to be printed. The motion was seconded by **Senator Cameron**. The motion **passed** unanimously by voice vote.

PASSING OF GAVEL: **Chairman Pearce** thanked Ms. Kiefer for her presentation of the RS's. He then passed the gavel to **Vice Chairman Bair** who will conduct the hearing on the Pending Rules for the Idaho Fish and Game Commission.

DOCKET NO. 13-0102-1201 **Ms. Kiefer** said the Commission was authorized to promulgate rules to establish a mentored hunting program. The mentored hunting program will allow a person who is interested in trying hunting to participate in hunting without completing hunter education or purchasing a hunting license for one calendar year. The person must obtain a Hunting Passport from IDFG and be accompanied by a mentor who holds a valid Idaho hunting license and is at least 18 years old.

MOTION: **Senator Tippetts** made the motion to adopt Docket No.13-0102-1201. The motion was seconded by **Senator Siddoway**. The motion **passed** unanimously by voice vote.

DOCKET NO. 13-0104-1201 **Ms. Kiefer** stated that this rule establishes the framework for issuing and use of the Governor's Wildlife Partnership Tags. Also, the outfitter allocation rule is amended to allow equitable adjustments in resident and nonresident elk tag allocation where resident demand exceeds tag availability and nonresident tags are under-subscribed. The date at which unsold nonresident deer and elk tags may be sold to residents or nonresidents as a second tag is changed to August 1.

MOTION: After some discussion, **Senator Siddoway** made the motion to hold Docket No.13-0104-1201 in Committee. The motion was seconded by **Chairman Pearce**. The motion **passed** by voice vote, eight ayes and one nay.

Vice Chairman Bair asked Ms. Kiefer and Mr. Burkhalter to see what the ramifications would be if subsection 701.01.c (disqualifying a person) was stricken.

DOCKET NO. 13-0104-1202 **Ms. Kiefer** explained that the Commission proposes three changes to the Landowner Appreciation Tag (LAP) program. (1) Implement a one year waiting period for those who draw antlered deer and elk LAP hunts that are oversubscribed by a ratio of 2:1 or greater; (2) Apply LAP allocation of an additional 10 percent of regular controlled hunt permit levels to all LAP hunts; and (3) Define "designated agent(s)" as referenced in Idaho Code, Section 36-104(b)(5)(B) as immediate family, youth, disabled veterans, and/or direct employees as valid designations to receive LAP tags.

Senator Tippetts inquired about the language on page 17 regarding negotiated rulemaking. He said that he didn't see in any of the Department's pending rules where any negotiated rulemaking was conducted, and quite often the reason given was because the issue was controversial or divisive. The Senator then asked for justification of why the Department does not use negotiated rulemaking more often than it does. **Ms. Kiefer** stated that on this particular subject matter (which the Fish and Game Advisory Committee has achieved significant consensus on certain elements of the program), there were elements that either the Committee, Sportsmen, or Landowners, outside of the Committee, were not in consensus on. Because of that, the Commission did request that these Rules be brought forward, based on some substantial long-standing input that they had had from Sportsmen about the LAP process.

Senator Tippetts inquired as to the last time the Department conducted a negotiated rulemaking process. **Ms. Kiefer** deferred the request to **Mr. Dallas Burkhalter, Deputy Attorney General, assigned to the Idaho Department of Fish and Game and to the Idaho Fish and Game Commission.** **Mr. Burkhalter** said that the Commission has not utilized negotiated rulemaking.

Senator Tippetts then asked Mr. Burkhalter if he sees that policy as being contrary to the guidelines in the Administrative Procedures Act which says that "...agencies shall proceed through such informal rulemaking whenever it is feasible to do so ..." The Senator said it sounds like a mandate to him and asked Mr. Burkhalter to comment. **Mr. Burkhalter** said that it was his understanding that the Commission and Department had made the determination that it was not feasible. **Senator Tippetts** said that he would like the Department to at least reconsider whether or not negotiated rulemaking ought to be involved in the process. **Ms. Kiefer** said that she would relay the Senator's guidance.

Senator Cameron also expressed his thoughts regarding the subject of the negotiated rulemaking process and totally agreed with Senator Tippetts. He stated that he is inclined to not support rules that do not go through that process.

Chairman Pearce also agreed with Senators Tippetts and Cameron, then stated that the Commissioners and the Department had essentially brought the fight to the Legislature, rather than taking care of it last summer. **The Chairman** said he and the Committee do not appreciate being the "fall guys" on this rule. **Ms. Kiefer** said the Commission was advised that this rule would be very controversial.

TESTIMONY:

Mr. John McCallum said that his ranch is in Unit 45 and they control 30,000+ acres and own 80,000 acres in the state of Idaho. On their lower property, there are over 1,000 cow/calves and 130 bulls. He said Unit 45 is rather unique as it is mostly privately owned and that is where the game stays. Mr. McCallum feels this new ruling is very unfair. At times, he has observed from 1,000 to 2,000 deer and/or elk in his fields and they eat the hay when the cattle are fed. He feels that being told he may or may not receive LAP tags is wrong.

TESTIMONY:

Mr. Rod Gonzales, manager of Camas Creek Ranch, said the ranch is comprised of 33,000 acres in Unit 45 and 5,500 acres in Unit 52. The rules were changed in 2011 that took the landowner tags from two to one and stated that he is not totally against the additional changes.

Senator Siddoway inquired of **Mr. Gonzales** if he participated in any of the depredation tags that are available on his land. The reply was that he received five cow tags and well over 1,000 elk are on their place. They are on irrigated crops, which are barley and wheat. When asked if he received depredation payments, he said no - but if the rule goes into effect, then he will definitely apply.

TESTIMONY: Next to testify was **Mr. Larry Williams, owner of Tree Top Ranches**. He provided the Committee with a booklet containing his testimony and other pertinent information.

He said they are a medium-size cow-calf operation with ranches in Idaho and Oregon and he will only speak about the happenings in Unit 45. The ranch had been heavily grazed when they purchased it in the mid 90's, so they cut back on grazing and now manage for cattle and wildlife. For the past several years, the ranch has supported around 50 elk in the spring and summer, and a herd of 300-500 in the fall. Bear, moose and many other species of wildlife are also supported there.

Not only has Tree Top Ranches provided significant wildlife habitat, but they have provided access and hunting opportunities for many sports - men and women. Their general rule is "over 80, under 15, or a worst-wounded veteran". Over the past five years, 31 out of 38 hunters have fallen into these categories.

Mr. Williams said that one of their primary objectives with Bennett Mountain has been to provide very high-quality hunting experiences for people who might not otherwise be able to do so on public lands. They drafted a Bennett Mountain wildlife trust designed to protect this opportunity for generations to come, but it is "on hold" because of their concerns about how game management and hunting regulations could be politicized. He stated that the proposed rule change is a good example of that concern.

Mr. Williams indicated that if the Commission doesn't care enough about what they have accomplished in Unit 45, and won't provide landowners with reasonable opportunities to hunt or to be compensated for the forage consumed by wildlife, then Tree Top Ranches will totally eliminate all hunting access to their properties in Units 31, 44, and 45. He urged the Committee to reject the proposed rule change and to also be aware that the Idaho Fish and Game Commission has severely harmed habitat efforts and damaged landowner relations in Unit 45 with this kind of proposal.

Vice Chairman Bair asked Mr. Williams, if he could be "king for a day", what would the LAP program look like to him? **Mr. Williams** responded by saying if he had the same amount of property in Oregon as he does in Idaho, he would receive 15 wildlife tags to do with as he pleased. The tags could not be sold, but they could sell access, which would generate dollars for them and help to replace dollars lost for cutting their herds back. He said they went from 4,500 animal unit days (which is 300 head for five months) to 975 animal unit days. **Vice Chairman Bair** then inquired if it would be important to Mr. Williams to sell the tags outright, sell for access rights, or keep for himself? **Mr. Williams** stated that he would not sell them, just use them to give to older folks to have a hunting experience.

Chairman Pearce stated that he wanted to express his gratitude to Mr. Williams for what he has done for the veterans.

TESTIMONY: Written testimony was submitted by **William J. Mulder, an authorized representative of Tree Top Ranches**, and is on file. Part of his testimony stated "the pending rule is contrary to the habitat and access intents of the LAP. The pending rule has no biological benefits. We believe the LAP should be about habitat, not a social program. For these reasons, we respectfully request that the Committee NOT adopt pending rule Docket No. 13-0104-1202."

TESTIMONY: Next to testify was **Mr. Charles Henry**, a retired teacher and a sportsman for many years. In 1999 and 2000, he served on the Wildlife Advisory Committee and said that most of their time was taken up with LAP issues and he feels that he is well-versed. He said that he is acquainted with many of the landowners in Unit 45 and they feel that for the last 12 or 13 years, the program has been workable. In Region 4, where most of the LAP tags occurred, there was a greater number of landowners and the amount was increased from 10 percent to 25 percent in 2009. Now, that has been reversed. Another issue is the one year waiting period. **Mr. Henry** feels that does not show appreciation.

TESTIMONY: **Mr. Wally Butler, Range and Livestock Specialist for the Farm Bureau**, testified in opposition to Docket No. 13-0104-1202. The Farm Bureau is also concerned about the lack of use of the negotiated rulemaking process and would like to be involved.

Senator Siddoway said that his ranching operation participates in the LAP program and he sees problems with the program. He also declared a conflict of interest, according to Rule 39, and said that he does intend to vote on Docket No. 13-0104-1202.

MOTION: **Senator Siddoway** made the motion to hold Docket No. 13-0104-1202 in Committee for time certain. The motion was seconded by **Chairman Pearce**.

Senator Cameron inquired as to what Senator Siddoway intended to do. **Senator Siddoway** indicated that he would like some time to talk to the Commissioners regarding this issue. **Senator Cameron** said that he felt since the rule did not go through the negotiated rulemaking process, the only way to make the Commissioners go through the process is to reject the rule and start over. **Chairman Pearce** withdrew his second to the motion and **Senator Siddoway** withdrew his motion.

MOTION: **Senator Siddoway** then made the motion to reject Docket No. 13-0104-1202. The motion was seconded by **Chairman Pearce**. The motion **passed** by unanimous voice vote.

DOCKET NO. 13-0107-1201 **Ms. Kiefer** said they have been working on bringing clarity to the Motorized Hunting Rule and this docket rescinds the Motorized Hunting Rule from this chapter of rules, which are rules governing the taking of Upland Game Animals.

MOTION: **Senator Stennett** made the motion to reject Docket No. 13-0107-1201. The motion was seconded by **Senator Lacey**.

TESTIMONY: **Mr. John Robison, Public Lands Director, Idaho Conservation League**, said that he represents 20,000 members and supporters, and on their behalf, he expressed opposition to the proposed rule change. He said they do support changes to motorized rules where it would increase public involvement, make them more understandable, and more comprehensive. He asked that the Committee reject this rule.

Senator Siddoway inquired if there were any public hearings and **Ms. Kiefer** responded in the affirmative. She said they had an email distribution list of many names, including Mr. Robison, as to when the Commission was taking out these rules, as well as when the rules would be published in the Administrative Bulletin. **Ms. Kiefer** said that Mr. Robison's group did comment on the Administrative Bulletin publishing, specifically to sage grouse. This docket is specific to Upland Game Animals, not Upland Game Birds, so it has nothing to do with sage grouse in this particular docket. This docket deals with rabbits and the Commission's rationale was the biological vulnerability, which is a cornerstone of the Motorized Hunting Rule when it was developed for big game hunting, and is not an issue for Upland Game Animals.

Chairman Pearce asked if it involved only rabbits? **Ms. Kiefer** said yes, cottontail rabbits.

Senator Lacey withdrew his second to the motion made by Senator Stennett. **Senator Stennett** withdrew her motion.

MOTION: **Senator Siddoway** made a motion to adopt Docket No. 13-0107-1201. The motion was seconded by **Chairman Pearce**. The motion **passed** by unanimous voice vote.

PASSING OF GAVEL: **Vice Chairman Bair** announced that the remaining dockets on today's agenda will be heard on Wednesday, January 16. He then passed the gavel back to **Chairman Pearce**.

ADJOURNED: **Chairman Pearce** thanked everyone for their participation, then adjourned the meeting at 3:03 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 16, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett, and Lacey

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:32 p.m. He announced that today's meeting will consist of hearing the remaining pending rules for the Idaho Fish and Game Commission.

PASSING OF GAVEL: He then passed the gavel to **Vice Chairman Bair** who will conduct the hearings. **Vice Chairman Bair** then called on **Ms. Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG) to present the pending rules for IDFG.

DOCKET NO. 13-0108-1201 **Ms. Kiefer** said these rules deal with the rules governing the taking of Big Game Animals in the State of Idaho. It will allow the use of a rimfire rifle or pistol, or muzzleloading pistol to dispatch a trapped gray wolf. Also, these rules clean up several sections of rules in order to consolidate wolf trapping rules in another chapter (see Docket No. 13-0117-1201).

Senator Stennett asked for clarity relating to the different guns. Ms. Kiefer deferred the question to **Mr. Dallas Burkhalter**, Deputy Attorney General for IDFG and the IDFG Commissioners. **Mr. Burkhalter** is a sport shooter and explained the difference between rimfire and centerfire. He said that rimfire refers to the priming mechanism that ignites the cartridge and what most people think of when they hear rimfire is a .22 caliber long rifle. There is also a .17 caliber gun that is a rimfire. Other calibers are referred to as centerfire, because the primer is located in the center of the back of the cartridge for both handguns and rifles. **Mr. Burkhalter** added that rimfire is generally considered a low-power cartridge and is not what you would want to use to take a deer off the side of a hill at 100 yards, but is very efficient to take an animal that is held in a trap so that the fur is not damaged for commercial purposes.

Senator Cameron talked about the negotiating rulemaking process and referred to last Monday's conversations. He again questioned why the process was not used. **Ms. Kiefer** responded by saying that trappers would not necessarily be overly interested in sitting down with non-trappers to discuss these rules. **Senator Cameron** feels that the public needs the opportunity to negotiate (with the government entity who is trying to regulate them) and that is the benefit of the negotiated rulemaking process. **Ms. Kiefer** said the trappers came to them regarding the rimfire issue and requested it. **Senator Cameron** said her statement has helped him to know that the trappers came to the Department and requested it, and that the rule is not being "pushed" from government down.

Ms. Kiefer also indicated that these rules clean up several sections of rules in order to consolidate wolf trapping rules in another chapter (see Docket 13-0117-1201).

MOTION: **Senator Heider** made the motion to adopt Docket No. 13-0108-1201. The motion was seconded by **Senator Siddoway**. The motion carried by **unanimous voice vote**.

DOCKET NO. 13-0108-1202 **Ms. Kiefer** said that Docket No. 13-0108-1202 are rules that govern the taking of Big Game Animals. This rule implements two laws that were passed last year, *House bill 457* and *House bill 525*. This part pertains to *H457* to allow someone to accompany a disabled hunter, who holds one of IDFG's disabled types of licenses, to assist them and place the disabled hunter's tag on the animal. It also would allow the companion of the disabled hunter to dispatch the wounded animal. This was brought to the Department by an individual who was hunting and had difficulty with a wounded animal; at that time, there were no allowances for someone else to dispatch that animal.

Senator Tippetts feels that some of the wording in the rule has "overkill". He also inquired as to who would be in violation, the disabled hunter or the companion, if a violation occurred. **Ms. Kiefer** stated that it would be the disabled hunter.

Ms. Kiefer said this part of the rule pertains to *H525* and was brought to the Commission by a group of hunters last session to allow a parent or grandparent to transfer a controlled hunt tag to a youth (younger than 18). Regarding general tags, there are youth general tags, so this rule is dealing specifically with controlled hunt tags. The Department agreed to keep the transfers from resident to resident and nonresident to nonresident and does not allow cross-residency transfers. It also exempts the companion of a disabled hunter from possessing a valid game tag when assisting a disabled hunter with a valid tag taking wildlife. This docket is similar to Docket No. 13-0109-1201.

Senator Tippetts discussed the language on page 40, regarding age and the relationship to whom a tag would be transferred and asked for clarification. **Ms. Kiefer** stated that the Commission felt that it was clear enough in the law, but if he felt some discomfort, they could amend this rule to make it more clear.

MOTION: **Senator Tippetts** made the motion to reject Docket No. 13-0108-1202. The motion was seconded by **Senator Heider**. The motion carried by a **majority voice vote**, eight (8) ayes to one (1) nay.

DOCKET NO. 13-0108-1203 **Ms. Kiefer** said this docket makes rule changes to implement the Governor's Wildlife Partnership Tags created by *Senate bill 1256*. The tags would be taken from the nonresident tag quota, making it the same procedure as the existing big horn sheep auction and lottery tags. The Governor's Wildlife Partnership Tags were also added to the exemption of the one year waiting period that applies to regular controlled hunts. The cleanup part of the rule was to change the word "winner" to "recipient".

MOTION: **Senator Siddoway** made the motion to adopt Docket No. 13-0108-1203. The motion was seconded by **Senator Heider**. The motion carried by **unanimous voice vote**.

DOCKET NO. 13-0108-1204 **Ms. Kiefer** said this rule makes amendments to the Motorized Hunting Rule to improve clarity and outreach to help both hunters and other motorized recreationists understand the Motorized Hunting Rule. Definitions are clarified and the rule provides for unit application rather than hunt designation. It will now say for "units", hunting rules are in effect from August 30 to December 31. No more new units will be added unless other units are released. This is a Motorized Hunting Rule, not a Motorized Vehicle Use Restriction.

Senator Cameron expressed his concern, again, about the process of rulemaking and also his concern about the definition of a "hunter" as defined on page 58. He says it is in Idaho Code, but feels that it should be changed. His objection is to the words "worrying" and "lying in wait", as they are subjective, not appropriate and could be interpreted in a very vague way. Also, as far as All Terrain Vehicles (ATVs) on private land, he feels that verbal permission should be acceptable, not just written permission. **Ms. Kiefer** replied that requiring written permission from the landowner was to protect the landowner, and is a way to keep people from saying they had permission when, in fact, they did not. **Senator Cameron** said that sometimes it is a hassle for individuals to get written permission from a landowner. **Senator Cameron** also shared that some ATV user groups felt like they did not get an opportunity to participate in the input.

MOTION: **Senator Heider** made the motion to adopt Docket No. 13-0108-1204. The motion was seconded by **Senator Siddoway**.

SUBSTITUTE MOTION: **Senator Cameron** made a substitute motion to reject Docket No. 13-0108-1204. The motion was seconded by **Senator Brackett**.

Chairman Pearce asked for a **roll call vote**. Voting aye (4) on the substitute motion were Senators Cameron, Brackett, Tippetts, and Chairman Pearce. Voting nay (5) were Senators Siddoway, Heider, Stennett, Lacey, and Vice Chairman Bair. The substitution motion failed.

Voting aye (6) on the original motion were Senators Lacey, Stennett, Heider, Siddoway, Vice Chairman Bair, and Chairman Pearce. Asked to be recorded as voting nay (3) were Senators Cameron, Brackett, and Tippetts. The original motion carried.

DOCKET NO. 13-0108-1205 **Ms. Kiefer** said this Docket is related to a previous Landowner Appreciation Program (LAP) docket that the committee has rejected. This proposed rule implements a one year waiting period for antlered deer and elk LAP hunts oversubscribed by a ratio of 2:1 or greater.

MOTION: **Senator Brackett** made the motion to reject Docket No. 13-0108-1205. The motion was seconded by **Senator Cameron**. The motion carried by **unanimous voice vote**.

DOCKET NO. 13-0109-1201 This docket deals with Rules Governing the Taking of Game Birds in the State of Idaho. **Ms. Kiefer** said that tags deal with big game and permits deal with turkeys (birds). A corollary rule has been created for a permit and it relates to the same two laws that dealt with a disabled hunter dispatching an animal or putting a tag on it.

MOTION: **Senator Tippetts** made the motion to reject Docket No. 13-0109-1201 for all the same reasons that the committee rejected the previous dockets that had the same provisions in them. The motion was seconded by **Senator Cameron**. The motion carried by a **majority voice vote** (8-1).

DOCKET NO. 13-0109-1202 **Ms. Kiefer** said this docket relates to Rules Governing the Taking of Game Birds in the State of Idaho. When the rules were codified previously, the rules for validating sandhill crane tags did not get brought forward and entered into the rule book. This rule is just putting it in the proper place and considered "cleanup".

MOTION: **Senator Tippetts** made the motion to adopt Docket No. 13-0109-1202. The motion was seconded by **Senator Cameron**. The motion carried by **unanimous voice vote**.

**DOCKET NO.
13-0109-1203**

Ms. Kiefer testified that this docket also relates to game birds and the following changes are proposed: 1) Clarify the Wildlife Management Area (WMA) permit marking requirement to require nonerasable ink and removal of notching permits; 2) Require that Eurasian collared doves have a fully feathered wing or head attached while in the field or in transport to their final place of consumption to improve identification; and 3) Allow an exception to the Hagerman WMA hunting closure for Department sponsored waterfowl hunts.

MOTION:

Senator Heider made the motion to adopt Docket No. 13-0109-1203. The motion was seconded by **Senator Stennett**. The motion carried by **unanimous voice vote**.

**DOCKET NO.
13-0109-1204**

This docket also deals with Rules Governing the Taking of Game Birds. **Ms. Kiefer** stated that the rule rescinds the Motorized Hunting Rule from this chapter of rules.

MOTION:

Senator Siddoway made the motion to adopt Docket No. 13-0109-1204. The motion was seconded by **Senator Heider**. The motion carried by a **majority voice vote** (8-1). **Senator Stennett** asked to be recorded as voting no.

**PASSING OF
GAVEL:**

Vice Chairman Bair announced that the remaining rules on the agenda would be heard at a future date. He then passed the gavel to **Chairman Pearce**

ADJOURNED:

Chairman Pearce adjourned the meeting at 3:05 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, January 18, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m.

MINUTES: The minutes of January 14, 2013 were presented; the motion to accept them as written was made by **Vice Chairman Bair** and was seconded by **Senator Siddoway**. The motion carried by **unanimous voice vote**.

PASSED THE GAVEL: **Chairman Pearce** then passed the gavel to **Vice Chairman Bair** who called on **Mr. Jake Howard**, Executive Director, Idaho Outfitters and Guides Licensing Board (IOGLB), to present their rule.

DOCKET NO. 25-0101-1202 **Mr. Howard** stated that **Docket No. 26-0101-1202** is a pending rule regarding the trapping of wolves, which is relatively new to Idaho. There has been a need determined for licensing outfitters to help the State of Idaho and the Idaho Department of Fish and Game (IDFG) properly manage Idaho's wolf population. Therefore, the purpose of this rule is to allow outfitters and their guides to trap wolves during hunting trips and to allow hunting clients to accompany them.

The outfitter or designated agent must have wolf hunting and wolf trapping properly amended to their outfitter license prior to providing services to the public by submitting a major amendment along with certification of completion of the mandatory wolf trapping education class. Guides must be properly employed by and licensed as a guide to a specific outfitter responsible for big game hunts and incidental wolf trapping. In addition to other training requirements, hunting guides must have completed the mandatory wolf trapping education class and have a certificate of completion on file with the outfitter prior to the activity taking place and available for inspection by IOGLB. Clients must possess the appropriate tags to participate in a hunt. Clients may hunt and kill any free ranging animal for which they have an appropriate license and tag but cannot kill an animal in or within 200 yards of their outfitter's or the guide's trap line. A trapped animal must be killed quickly and humanely. Animals cannot be released, then "hunted", and then killed. Clients may accompany a properly licensed guide who is checking his outfitter's traps and must be directly accompanied by the guide at all times. Clients may not handle or be involved with handling traps or trapped animals, and may only observe the handling of trapped animals by properly licensed guides.

Mr. Howard said negotiations took place with the representatives of IOGLB, IDFG, and industry representatives with the United States Forest Service (USFS). There have been no issues of concern and one letter was received regarding overall hunting and trapping in Idaho.

Senator Tippetts said that he sees many prohibitions mandated by USFS and inquired about them. **Mr. Howard** said that he and Director Moore, at the direction of their respective Boards, have responded to the USFS and have asked for reconsideration and will meet with them on February 5th.

MOTION:

Senator Siddoway made the motion to adopt **Docket No. 25-0101-1202**. The motion was seconded by **Senator Heider**. The motion carried by **unanimous voice vote**.

Vice Chairman Bair said the next rule to be heard is the Idaho Department of Lands' rule pertaining to the Idaho Forest Practices Act. Presenting it will be **Ms. Ara Andrea**, Regulatory Program Manager in Forestry Assistance, Idaho Department of Lands (IDL).

**DOCKET NO.
20-0201-1201**

Ms. Andrea stated that the Idaho Forest Practices Act Advisory Committee (FPAAC) which is statutorily charged with providing technical advice to the State Board of Land Commissioners (Land Board) and IDL crafts and approves amendments and additions to the Forest Practices Act administrative rules. These committee members, after many years of collaborative work with IDL, scientists, and the interests they represent, have developed and approved several substantive rule changes, resulting in the amendment of nine existing rules and the addition of one new rule.

Following approval by the Land Board in May, negotiated rulemaking began in June to amend the Forest Practices rules. Proposed rulemaking was subsequently conducted in October, and final Land Board adoption of these pending rules occurred on November 20th.

Ms. Andrea indicated that these rule amendments were the result of FPAAC's responses to multiple requests and issues brought before the committee from various forestry interests over the course of six years, primarily in response to recommendations brought by the Idaho Department of Environmental Quality (DEQ) following three different water-quality audits, conducted every four years by DEQ. **Ms. Andrea** said they think these rule amendments are biologically and operationally sound, and economically viable for all forestland owners and managers.

Pending rule changes include:

1. Recognition of all formal land-management agreements with federal regulatory agencies.
2. Protection of soils and riparian areas from any ground-based equipment usage in steep, unstable or stream-adjacent areas.
3. Clearer definitions of wet areas and the associated equipment-exclusion areas.
4. Increased flexibility of landowners and operators to perform timber-salvage operations following wildfire, insect infestations and wind events.
5. Lower stocking minima for drier, southern forest types, to promote more successful plantings following harvests.
6. Assignment of reforestation responsibility to the landowner at the time of harvest.

The remaining pending Forest Practices rule amendments have all received positive support from all interested parties, and slight modifications were made to these rule amendments as a result of comments received during negotiated and proposed rulemaking. The most significant changes include a change in the required minimum stocking levels to more closely align with stocking levels observed in the field which have resulted in successful regeneration. Also, the inaccurate definition of the term "clear cut" was removed and a corrected definition of "clearcutting" was inserted into a later rule where this term was referenced.

Ms. Andrea closed by saying these pending Forest Practices rule changes will give significant clarity to existing rule verbiage, provide necessary water and resource protections, and will also promote more successful regeneration of forest stands in our drier, southern forest types. (A copy of Ms. Andrea's testimony is on file.)

Vice Chairman Bair complimented Ms. Andrea on her presentation and also on the rulemaking process by having all stakeholders present and taking their advice, making changes when necessary, and leaving other sections alone. The **Vice Chairman** stated that is how the rulemaking process should be conducted and said that he deeply appreciated that.

Chairman Pearce inquired as to what groups were involved. **Ms. Andrea** stated that the groups included the Idaho Forest Owners Association, the Coeur d'Alene Tribe, the Environmental Protection Agency (EPA), and DEQ.

Senator Tippetts inquired if a policy change is involved in changing "ground-based skidding" to "ground-based equipment" or is it just a different way of prohibiting that same practice? **Ms. Andrea** answered that it is a way of clarifying the intent of the rule, and that is to protect the unstable soil and the soil next to the streams.

MOTION:

Senator Heider made the motion to adopt **Docket 20-0201-1201**. The motion was seconded by **Senator Tippetts**. The motion carried by **unanimous voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Bair returned the gavel to Chairman Pearce.

Chairman Pearce said the next order of business is to hold the confirmation hearing for **William M. Naillon**, Idaho Fish and Game Commission appointee.

HEARING:

Mr. Naillon has been appointed to the Idaho Fish and Game Commission (Commission) and is to serve a term that commenced July 1, 2012 and will expire June 30, 2016. He is from Challis and will represent Region 7. He stated that he feels this is a position where he could have a constructive voice and a positive impact. He has a vested interest in the welfare of the natural resources of our state from both an economic standpoint and from personal heritage. **Mr. Naillon** feels it would provide him with the opportunity to be more directly involved in the management and welfare of our wildlife resources.

Mr. Naillon was born in Salmon, Idaho and is a fifth generation Custer County miner. He has worked in all areas of mining from underground development to final reclamation and water treatment. He has been with Hecla Mining Company for 18 years and some of his responsibilities range from managing people to project planning.

As a miner and an avid fisherman, he believes that a balance concerning Idaho's watersheds and water quality can be achieved while supporting agriculture and industry in the state. He has been an ambassador and instructor for five years for the Idaho Fish and Game Hunter Education Program, mentoring youth, and would like to continue that work on a larger scale. **Mr. Naillon** was named the *Salmon Region Hunter Education Instructor of the Year for 2011*.

Mr. Naillon stated that he has an understanding of all the disciplines of hunting, participating in archery, centerfire and muzzleloader seasons, and has pursued all the big game species in all forms of pursuit and retrieval in the State, as well as hound hunting, using baits, and bird hunting. He feels all these experiences have given him a unique insight into this appointment.

One of the questions asked was that at times there seems to be a disconnect between the Department and the Commission, and also between the public. Mr. Naillon was asked how he viewed the role of the Commission, and how will he address the disconnect that occurs between the general hunting public and sometimes the Department and/or the Commission. **Mr. Naillon** said that what he has observed so far, is a lack of education regarding laws and rules and not understanding them.

Senator Cameron asked Mr. Naillon about the appropriate use of All Terrain Vehicles (ATVs) and the role of the Department in regulating ATVs. **Mr. Naillon** responded by saying there are two land managers and the Department does not need to act as another land manager; however, when ATV use is in question, he would hope that issues would come from the land manager, not the Department.

Chairman Pearce asked what the three biggest issues are facing the Commission. **Mr. Naillon** replied that he thinks financing, sage grouse and wolves top the list.

Senator Brackett asked Mr. Naillon to share his thoughts about wolves in Idaho. **Mr. Naillon** said he feels that Idaho has a very sound wolf management plan and it is important to move forward to attain the goals within the management plan and to keep the number of wolves requested in that plan. **Senator Brackett** said as a livestock owner, he would like to protect his property anytime, anywhere, with any means and asked if he could do that with wolves and if not, why not? **Mr. Naillon** replied, "Absolutely. Everyone has a right to protect their property, as far as I know, with any means possible". **Senator Brackett** then asked Mr. Naillon what his thoughts are on the Landowner Appreciation Program tags (LAP) and if they can be sold or not. **Mr. Naillon** stated that in Custer and Lemhi counties, the elk are becoming quite a problem - coming into the fields in low ground and not leaving. He said that he is not in favor of selling the tags and putting a price tag on the animals.

Senator Siddoway asked Mr. Naillon to share his philosophy on wildlife, species in decline, ideas on disease transmissions, and how to reach out. **Mr. Naillon** responded by saying that as far as management on declining species, if guidelines were followed instead of making it a "lands use issue", that is the biggest thing that would help. Regarding the disease issue, he feels that should be left up to the biologists.

Senator Siddoway asked Mr. Naillon to provide thoughts pertaining to sage grouse. **Mr. Naillon** said that habitat is very important and is a long-term project and also, predators (especially birds) are certainly an issue. The **Senator** asked Mr. Naillon if he would ask Fish and Wildlife Service to give permission to hunt some particular birds in certain areas. **Mr. Naillon** said that in other states, kill permits have been granted in experimental areas.

Senator Siddoway then inquired about species in decline with hunting opportunities. **Mr. Naillon** said that when sportsmen don't like what the biologists are doing, they will get involved by shortening the season themselves. He stated that in his opinion, that is the right thing to do.

Senator Stennett said that in looking over Mr. Naillon's resume, he does not have a degree, and she asked what could he bring to the table as a commissioner for the Fish and Game. **Mr. Naillon** replied that he does not have a formal education, but feels that his life experiences have prepared him for the job.

Senator Siddoway had one last question and that was regarding winter feeding of wildlife. **Mr. Naillon** said that he is not a fan of supplemental feeding, if it can be avoided. There are times when elk and deer get trapped in an area and might need it. He also feels that it creates "wolf feeding stations" and it also causes the elk to become dependent upon food being brought to them.

Chairman Pearce said there are some game managements that don't rate Idaho very high and he asked Mr. Naillon if he would look for new ideas and use "out of the box" thinking as to how we can make it better in Idaho for fish and game. **Mr. Naillon** said that he has read about mismanagement in Idaho. Two weeks ago, he attended the Western Association of Fish and Wildlife Agencies meeting and learned what they are doing and he is very excited about what is working, as well as what is not working.

The **Chairman** thanked Mr. Naillon for his participation, then invited the other members of the Commission to sit at the chairs with microphones for further discussion.

DISCUSSION: Idaho Fish and Game Commissioners present, in addition to Mr. Naillon, were Mr. Randy Budge, Mr. Bob Barowsky, Mr. Tony McDermott, and Ms. Joan Hurlock. Unable to attend were Commissioners Mr. Fred Trevey and Mr. Kenny Anderson.

Chairman Pearce invited Commissioner Budge, Commission Chairman, to update the committee regarding their activities.

Commissioner Budge said they appreciated the opportunity to have a dialogue with the committee and to talk about some issues, which he will address later. He then asked each commissioner to introduce themselves.

Commissioner Budge reported on the "Summit" meeting and thanked those on the committee who attended the event. He stated that the issue of the day was "sportsmen" and the Commission realizes that it is the start of a long-term discussion. It is their plan to continue discussions and dialogues with sportsmen on the local level. Subjects to be covered will be the quality on hunting and fishing, opportunity, access, and funding issues. The Commission is being very proactive with the Department on predator management and they are in the process of developing a comprehensive predator management program that will look at all predators in the State. Pelicans are a problem in eastern Idaho.

Commission McDermott said that he will be stepping down from the Commission in May, after serving eight interesting years, and there has never been a dull moment. Speaking on the subject of predators, he addressed the issue of wolves in the area south of I 90. Wyoming's wolf population has been delisted and in 60 plus percent of that state, they have been declared a predator. He said Idaho is not prepared to do that yet, but there is a good chance, south of I 84, that in the future wolves will not be welcome and will be declared a predator.

Two years ago, the Department did not have a wolf management program. Today, it is formalized and a brochure tells how Idaho manages predators. On the cover is a picture of a fish, pelican, and wolf. He said that predators have to be managed or there will be problems. Nearly 200,000 fish were eliminated in Lake Pend Oreille. The Idaho wolf program is a three-legged program which includes hunting, trapping, and predator control. There is a wolf problem in eight of our 28 big game management zones. The wolves in zones 10 and 12 have nearly decimated the herds there. In the 1990's, there were about 15,000 elk and now there are about 2,000. In 2010 and 2011, 43,000 wolf tags were sold. In 2012, about 37,000 tags were sold and less than half of one percent harvested a wolf. In 2011 and 2012, there were 41 trapping classes and over 900 trappers were trained. The projection for this year's trapping training is 450. In 2012, 422 wolves were harvested and in 2011, 296 wolves were harvested.

Commissioner McDermott said it is the intent of the Commission and the Department to return elk populations in several zones back to what sportsmen expect. He feels the elk population is doing very well in areas where there are not wolf problems.

Commissioner Barowsky reported on the mortality rate of animals on Idaho's state highways, which is about 6,000 animals a year. He said they are working with the Department of Transportation to identify trouble spots. There are seven different areas where work is being done and another 12 have been identified as problem areas with a high mortality rate. Underpasses and overpasses have been built, as well as fences; lights and motion detectors are being considered to slow traffic.

Senator Tippetts directed his remarks to Commissioner Budge regarding the negotiated rulemaking process and asked him to not dismiss that process because of possible controversial issues. It is the feeling of the committee that the negotiated rulemaking process be used, where appropriate. The **Senator** stated that the committee will be watching in the future and hope to see a change. **Commissioner Budge** said they had received the message very clearly.

Senator Brackett inquired about the board that interviews candidates for the position of a commissioner. **Commissioner Budge** said there are two individuals from the Governor's Office, two from the Commission and four individuals from sportsmen's groups, making a total of eight.

Due to time constraints, **Chairman Pearce** ended the discussion with the commissioners and thanked them for their attendance and participation.

ADJOURNED: The **Chairman** adjourned the meeting at 3:12 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, January 21, 2013

TIME: 1:30 P.M.

PLACE: WW02

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippets, Stennett and Lacey

Chairman Denney, Vice Chairman Gibbs, Representatives Wood (35), Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood (27), Boyle, Vander Woude, Gestrin, Miller, Anderson (1), Pence, Erpelding and Ward-Engelking

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**ANNOUNCE-
MENT:** **Chairman Pearce** announced that the meeting would convene as soon as the technical difficulties were resolved.

CONVENED: **Chairman Pearce** called the meeting to order at 1:43 p.m. He welcomed the House Resources and Conservation Committee members, as well as the members of the audience. The **Chairman** then asked Chairman Denney to introduce today's speaker.

**INTRO-
DUCTION:** **Chairman Denney** said it was his privilege to introduce Utah's State Representative Ken Ivory. Representative Ivory was the lead sponsor of H 148, the "Utah Transfer of Public Lands Act." It passed last year and was signed by Utah's Governor. **Chairman Denney** felt it was important to hear what Representative Ivory has to say as the West has similar problems as Utah. He then welcomed Representative Ivory to the Joint Committee meeting and to Idaho.

SPEAKER: **Representative Ivory** said it was a pleasure to be here and to share with the members the reason for H 148. It is a potential solution for severe financial issues facing the western states. In 1780, there was a trust agreement established over the Western Territories and **Representative Ivory** provided historical information regarding the states and federal jurisdiction. He said that statehood documents, dating back to the 1800s, contain a constitutional provision that the federal government intended to relinquish control of the land it held in each state.

The four myths are: 1) Gave up title; 2) Can't manage lands; 3) These lands belong to "all of us"; and 4) This is unconstitutional. In 1976, the Federal Land Policy Management Act (FLPMA) is the policy that allowed the retention of federal ownership within the states. However, Idaho and North Dakota became states within nine months of each other and did so under identical statehood language according to **Representative Ivory**. Federally managed land in North Dakota amounts to less than five percent of the state's acreage, but in Idaho, more than 64 percent (34,500,000 acres) of its 53,500,000 acres is under federal control. The Utah law exempts national parks and monuments, tribal reservations, military installations and congressionally approved wilderness areas.

Literature that was given to the committee by Representative Ivory included:

- Attachment 1 - A Legal Overview of Utah's H.B. 148 – The Transfer of Public Lands Act;
- Attachment 2 - Deseret News;
- Attachment 3 - A Federal Fault Line On Public Lands;
- Attachment 4 - The Only Solution Big Enough;
- Attachment 5 - Where's The Line America?
- Attachment 6 - Quotations - American Lands Council.

Time was allowed for questions from the committee.

ADJOURNED: **Chairman Pearce** thanked Representative Ivory for his informative presentation, then adjourned the Joint meeting at 3:33 p.m.

** Included as Attachment 7 is a letter (dated 2/13/13) from Director Tom Schultz, Idaho Department of Lands. The information contained in the letter is pertinent to the subject of the minutes.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 23, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m. and welcomed those in attendance.

MINUTES: **Senator Heider** made the motion to approve the minutes of January 16, 2013. The motion was seconded by **Senator Bair**. The motion **carried by unanimous voice vote**.

GUB APP'T: **Senator Siddoway** moved to send the Gubernatorial appointment of **William Naillon** to the Fish and Game Commission to the floor with recommendation that it be confirmed by the Senate. The **Chairman** asked if there was any discussion regarding the motion.

DISCUSSION AND CORRECTION: **Senator Brackett** said that he had researched the law regarding the killing of wolves when protecting one's property. Part of the testimony by Mr. Naillon, during his confirmation hearing January 18, was incorrect and the **Senator** said that he wished to clarify the matter. At the hearing, he asked if wolves could be killed at any time, any place, with any method while protecting one's property, and if not, why not? **Senator Brackett** said that Mr. Naillon's answer was yes, that they could be killed. **Senator Brackett** said that was an incorrect answer according to the Idaho Wolf Plan. If the wolf is threatening livestock, then the person has the discretion to take the wolf, or if he has documented livestock kill, then he could obtain a kill permit; but to kill a wolf on sight would cause trouble for the individual.

Another question **Senator Brackett** asked Mr. Naillon was "could a landowner sell a Landowner Appreciation Tag?" The response from **Mr. Naillon** was no and the **Senator** said that he disagrees with the answer. Other than those two issues, **Senator Brackett** feels that Mr. Naillon can be educated and will make a fine Commissioner and he will support him.

There was no further discussion. **Vice Chairman Bair** seconded the motion. The motion **carried by unanimous voice vote**. **Senator Siddoway** will be the **floor sponsor**.

PASSED THE GAVEL: Chairman Pearce passed the gavel to **Vice Chairman Bair** who will conduct the meeting regarding Rules.

Vice Chairman Bair called on Mr. Neil Crescenti, Program Manager for Grazing, Farming and Conservation Leasing for the Idaho Department of Lands (IDL), to present their rules.

**DOCKET NO.
20-0314-1201**

Mr. Crescenti stated that **Docket No. 20-0314-1201** governs the leasing of State endowment trust lands for grazing, farming, conservation, noncommercial recreation and communication site leasing purposes. Grazing lease applicants applying for unleased lands are now required to submit a grazing management plan proposal with their application.

Mr. Crescenti also said that IDL is also taking the opportunity to address several other issues with the intent to broaden the application of rule language, which in several sections speaks only to grazing and farming; clarify the process; and to reduce redundancy where language or subject matter is handled through lease contract language or programmatically by IDL.

The State Board of Land Commissioners directed IDL to enter into negotiated rulemaking on May 15, 2012. IDL drafted and negotiated changes to the current rule with interested stakeholders and with the assistance of the Attorney General's office. Parties that participated included representatives from the Idaho Cattle Association (ICA), Simplot Company, Western Watersheds Project (WWP) and the Idaho Farm Bureau (IFB). Key changes include management plan requirements incorporated into the definitions section, as well as into the applications and processing sections. Two sections have been proposed for deletion. They are "Rights Reserved to the Department" because it is redundant and Cropland Hardship Claims. This program has been under-utilized due to enrollment in crop insurance and other federal disaster programs.

In summary, the pending rule established consistency with statute changes made last year, removes provisions that are more appropriately handled by the lease contract, and clarifies the conflict application appeal process. A copy of Mr. Crescenti's testimony is on file. (See attachment 1).

TESTIMONY:

Mr. Wyatt Prescott, Executive Vice President of the Idaho Cattle Association, testified that they were active in the negotiated rulemaking process and stand in favor of the rules, as presented today.

TESTIMONY:

Mr. Wally Butler, Range and Livestock Specialist, Idaho Farm Bureau, said the Idaho Farm Bureau was involved in the process also, and they are in support of the rules.

**CONFLICT OF
INTEREST:**

Senator Siddoway reported that because he has State leases, according to Rule 39, he could have a potential conflict of interest and wished to declare that.

**CONFLICT OF
INTEREST:**

Senator Brackett said that he, too, also has State leases, and wished to make the same declaration.

MOTION:

Senator Brackett moved to approve **Docket No. 20-0314-1201**. **Senator Heider** seconded the motion. The motion **carried by unanimous voice vote**.

Vice Chairman Bair then asked Mr. Pietras to make his presentation.

**DOCKET NO.
20-0315-1201**

Mr. Bob Pietras, Program Manager for Energy Resources Leasing, IDL, presented **Docket No. 20-0315-1201**. They govern the leasing of all State lands for the exploration, development and use of geothermal resources. Last year, some stakeholders voiced their concerns with sections of the rule that address IDL's ability to shut down operations, require sampling and require use of by-products. **Mr. Pietras** said IDL made a commitment to the legislative committees to reenter negotiated rulemaking this past year to more fully address those concerns.

Participation in the rulemaking process was light, with one representative of industry and one representative from the Idaho Conservation League. IDL drafted and negotiated changes to the current rule with interested stakeholders and with the assistance of the Attorney General's office. Key changes include deletion of sections regarding shut downs, sampling, and development and use of by-products.

Regarding shut downs, it was modified to allow for additional state or federal agencies "with jurisdiction" and expertise to shut down operations to protect "public safety, environment, or for fire suppression."

The section regarding sampling, **Mr. Pietras** said that stakeholders were concerned that the lessee is responsible to pay for any sampling required by IDL. The content of this requirement for sampling has been moved to the lease to provide flexibility in negotiating sampling requirements on a case-by-case basis.

Again, stakeholders were concerned that the lessee could be required to produce by-products even if such production was not financially feasible. The content of this requirement for by-product production has been moved to the lease and modified to allow the State to lease the use of by-products to a third party so long as such use does not unreasonably interfere with lessee's use in the event the lessee elects not to produce and market the by-products.

Senator Stennett inquired as to who oversees the regulation. **Mr. Pietras** said if she was talking about the actual drilling of wells, that falls under the jurisdiction of IDWR. **Senator Stennett** then referred to number 19 on page 147 of the Pending Rule Book which states "**Person**. Any natural person, corporation, association, partnership, or other entity recognized and authorized to do business in Idaho,..." **Mr. Pietras** said that entry was put in by the Attorney General and he does not have an exact understanding of it, but will get an explanation and get back to the Senator regarding her inquiry.

Mr. Pietras stated that several other sections that included non-substantive language more appropriately included in IDL's geothermal lease template were also deleted to allow these provisions to be negotiated as necessary on a case-by-case basis.

Other sections were modified for clarification purposes, such as: "Reclamation" was replaced with "Plans Required." Another section relating to lease assignments was modified to appropriately protect the State, given that multiple entities are often involved in different stages on capital-intensive projects like geothermal facilities.

Mr. Pietras said to summarize his report, the pending rule addresses the outstanding concerns raised by stakeholders, removes provisions that are more appropriately handled in the lease, establishes consistency in the requirements for auctioning leases, and clarifies the lease assignment procedure. A copy of his presentation is on file. (See attachment 2).

TESTIMONY:

Written testimony was submitted by **Scott H. Nichols**, Permitting and Lands Manager, U.S. Geothermal Inc., supporting the proposed geothermal rules. He believes the rules will be good for IDL and the industry. He apologized for his absence and asked that his testimony in favor of the rules be entered into the record. (See attachment 3).

TESTIMONY:

Mr. Ben Otto, Idaho Conservation League, testified in support of the rules and offered his congratulations to Mr. Pietras and his team for coming up with a good, balanced, clear flexible rule to have geothermal development, while also protecting other trust resources.

MOTION:

Senator Stennett moved to approve **Docket No. 20-0315-1201**. **Senator Cameron** seconded the motion. **Vice Chairman Bair** asked if there was any discussion. **Senator Tippetts** said he is supporting the motion but wanted to express his concern regarding paragraph two, page 145, number 03. **"Other Laws.** In addition to these rules, the Lessee shall comply with all applicable federal, state and local laws, rules and regulations. The violation of any applicable law, rule or regulation shall constitute a breach of any lease issued in accordance with these rules." He would like IDL to look at and consider the words "Lessee shall comply" (in the first sentence).

There was no further discussion and the motion **carried by unanimous voice vote**.

Vice Chairman Bair then asked **Mr. Brian Ragan**, who works with the Underground Injection Control Program (UIC), Idaho Department of Water Resources (IDWR), to present the next docket.

**DOCKET NO.
37-0303-1201**

Mr. Ragan said that **Docket No. 37-0303-1201** covers Rules and Minimum Standards for the Construction and Use of Injection Wells. It is a federal program run by the U.S. Environmental Protection Agency (EPA) and the State of Idaho received primacy for the UIC Program in 1984.

The majority of injection wells in Idaho are used for disposal of excess irrigation water, end of canal water disposal, storm water disposal, and water-based heat pump systems. The UIC rules were last revised in 2003. In November, 2011, the Idaho Water Resource Board (IWRB) issued a resolution to revise the UIC rules and initiate the negotiated rulemaking process. Following are the reasons for the revisions: to meet the minimum federal requirements for the Class V Injection control rules; reduce regulation on injection wells associated with open loop heat exchange systems, also Class V Injection control rules; and implement regulatory framework for Class II injection wells in preparation of a budding oil and gas industry.

Mr. Ragan stated that there were five negotiated rulemaking meetings held between April and June. Participants included: Oil and gas industry; Idaho Water Users Association; Idaho Ground Water Appropriators Association; Idaho Ground Water Association; Idaho Conservation League; U.S. Environmental Protection Agency; Idaho Attorney General's Office; Idaho Department of Lands; Idaho Department of Environmental Quality; Southwest District Environmental Health Department; and private citizens. A public hearing was held in October 2012 regarding the proposed rules.

The revisions of Class V rules included updating and adding definitions for consistency with state statutes and federal law and to provide changes in the regulatory process to comply with the minimum federal law to retain primacy of the program. The definition of an injection well was not consistent with Federal Code because all criteria must be met and improved sinkholes are excluded. The proposed definition is a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or a subsurface fluid distribution system.

Improved sinkholes are naturally occurring depressions or crevices found in volcanic terrain and other geologic settings which have been modified by man for the purpose of emplacing fluids into the subsurface. Improved sinkholes are not currently regulated under IDWR rules, but are required to be regulated by Federal Laws. These revised rules regulate improved sinkholes.

Currently, injection wells associated with roof and foundation drain are exempt from the Idaho UIC rules. The exemption is not consistent with Federal Code. The revised rules remove the exemption.

The Class II rules (which are new this year) are specifically related to oil and gas production and wastes generated during production and processing. Three main reasons for Class II injection are:

- Inject fluids for reservoir pressure for enhanced recovery of oil and gas resources
- Inject waste brines associated with oil and gas production
- Inject liquid hydrocarbons for storage of oil and gas resources

Mr. Ragan said IDL has developed rules to regulate Class II injection wells. The new rule establishes the following: permit application process; draft permit process; public notification of permit actions and public comment period; public comments and request for a hearing; bonding for each Class II injection well \$10,000 per well plus \$1.00 per foot; application fees - \$2,500 per well; permit conditions; injection well construction requirements; operating and monitoring requirements; mechanical integrity tests; injection pressure monitoring; area of review; corrective action; aquifer exemption process; plugging and abandoning wells.

TESTIMONY: **Ms. Amanda Buchanan**, a resident of Weiser, Idaho said she participated in IDWR's comment period and she appreciated that they responded to her comments. However, she stated that it did little to alleviate her concerns with the rules. She feels that the "rules are vacuous, inadequate and based on a grand assumption that whomever sits as the Director will have the courage, knowledge and financial capability to set individualized decisions at his discretion with very little guidance in statute." A copy of her testimony is on file. (See attachment 4).

TESTIMONY: Next to testify was **Ms. Alma Hasse**, who presented the committee with a handout (see attachment 5) that said there is conclusive scientific evidence that the injection of fluids (fracking) is causing earthquakes in the U.S., particularly in Texas. She stated that Idaho is the fifth most seismic active state in the country. **Ms. Hasse** said she wanted this information on record so that the committee could not say that they weren't made aware of this situation.

TESTIMONY: **Mr. Justin Hayes**, Program Director for the Idaho Conservation League, said they participated in all of the various public comment periods held during the development of this rule and also provided testimony to IWRB regarding this matter.

Mr. Hayes stated that they feel the proposed rules are not sufficiently protective of the public's interest; especially with regard to the protection of groundwater. He asked that the committee reject these rules until such time that the rule includes additional, needed protections for groundwater and additional restrictions on the use of injection wells to dispose of harmful wastes. A copy of his testimony is on file. (See attachment 6).

CONFLICT OF INTEREST: **Chairman Pearce** said that he might have a possible conflict of interest as he has had oil and gas leases for 30 years, but no wells and asked that it be entered into the record.

MOTION: **Senator Stennett** moved to reject **Docket No. 37-0303-1201**. **Senator Lacey** seconded the motion.

SUBSTITUTE MOTION: **Senator Siddoway** made a substitute motion and moved to approve **Docket No. 37-0303-1201**. **Senator Heider** seconded the motion. The motion **carried** by majority voice vote (7-2). Voting nay were Senators Stennett and Lacey.

PASSED THE GAVEL: **Vice Chairman Bair** returned the gavel to Chairman Pearce.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 3:05 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, January 25, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:35 p.m. He welcomed the Gubernatorial appointees to the Idaho Water Resource Board (Board), other Board members, and Director Spackman, who is also an appointee.

GUB. APP'T.: **Chairman Pearce** called on Mr. John Albert "Bert" Stevenson to address the Senate Resources and Environment Committee (Committee).

Mr. Stevenson said it was an honor to have received this appointment. He has been involved with water issues for many years and feels that he understands the challenges and opportunities that face the water users statewide. He served 16 years in the House of Representatives and served as chairman of the House Resources and Conservation Committee. Also, **Mr. Stevenson** has held public office in several different capacities including Minidoka Irrigation District Board of Directors, Minidoka County Planning and Zoning Board, Minidoka County Commissioner, CSG West River Governance Committee Member, Pacific Northwest Economic Region Water Policy Group, Magic Valley Ground Water District, Idaho Irrigation Pumpers Association Board Member, and Idaho Water Users Member.

Mr. Stevenson was born in Minidoka County and has always resided in Idaho, with the exception of when he served two years in Canada on a Mission and served two years in the U.S. Army. After returning to Idaho, he resumed his vocation as a farmer.

As for his contribution to the Board, **Mr. Stevenson** said that he has watched water projects be developed, such as the A&B Irrigation District that was brought into production. He has seen change from all surface irrigation to sprinkler irrigation and has helped to litigate conflicts.

GUB. APP'T.: **Mr. Vince Alberdi** is also an Idaho native, living in the Magic Valley his entire life. He stated that he started in the water business, then moved to utilities for a few years, built homes for ten years, then returned to the water management field. In 1992, he was hired as general manager of the Twin Falls Canal Company. The Canal Company is the largest canal company in Idaho and diverts over 3500 cfs (cubic feet of water per second) in the summer from Milner Dam on the Snake River to over 100 miles of large canals and over 1,000 miles of smaller laterals. During his 16 years as general manager, he was instrumental in rebuilding many of the major irrigation structures, consolidated operating divisions, built two new office buildings, updated the equipment and improved water deliveries in the canal system with a state of the art automation system.

Mr. Alberdi served as a negotiator with upstream water users and was instrumental in the 2005 water call made by the Surface Water Coalition. On behalf of the Surface Water Coalition, he served on the Idaho Water Resource's Comprehensive Aquifer Management Plan Committee and is currently serving on Idaho Power's Integrated Resource Management Plan Advisory Group. He also was an active member of the Watershed Advisory Group (WAG).

One reason given as to why **Mr. Alberdi** wants to serve on the Board is because he wants to explore possibilities to find solutions to the Surface Water Coalition Water Call in District 120. He also stated that when he makes decisions, they are made for the state of Idaho.

GUB. APP'T.:

Mr. Albert Barker of Boise was next to testify. He said that he was honored to receive an appointment to the Idaho Department of Water Resources.

He is an attorney and has over 30 years of experience practicing law, principally in the area of water rights, commercial and environmental litigation and administrative proceedings. Areas of concentration include water rights, hydropower and environmental and natural resources, the construction industry, antitrust, trade regulation, trademarks, and insurance litigation.

Mr. Barker's education includes a Bachelor of Arts from Yale University; J.D. (Jurist Doctorate) from the College of William & Mary; and is authorized to practice in Idaho, Virginia and the United States Supreme Court. He is also active in civic organizations: YMCA, Youth Soccer, AAU Basketball and Board member of a local charitable Foundation that benefits children and the elderly.

When asked why he would like to serve on the Board, **Mr. Barker** said that his professional career has been dedicated to serving the interests of water users in his district. He currently works for water delivery organizations in the Boise, Payette and Owhyee River basins, as well as in other parts of the state. He feels that he has the understanding of the needs and concerns of the water users in this district. **Mr. Barker** also has an extensive background in environmental laws that may impact water use, including the Clean Water Act, the Endangered Species Act, and the Superfund. He said that he could bring an understanding of the impacts of how those laws might impact water policy to the Board.

GUB. APP'T.:

Mr. Roger Chase has served local and state government for many years in many different capacities. His experiences include: Council member, City of Pocatello (seven years); Idaho State Representative (four years); Mayor, City of Pocatello (eight years). He also was employed by the J.R. Simplot Plant in Pocatello and his responsibilities there included the operation and maintenance of various production facilities, as well as being involved in contract negotiations and personnel issues.

Mr. Chase is presently owner of a small consulting firm and that gives him the opportunity to work with several different private companies that deal with issues involving agriculture, manufacturing, recreation, energy, construction and other industries. He also has 20 years of experience dealing with tribal issues.

When asked why he wants to serve on the Board, **Mr. Chase** replied that he feels he brings a unique perspective to the Board. His knowledge of urban and local government issues will be helpful and it is important that those issues are represented.

His community involvement includes (or has included): member of National Association of Mayors; member, Bannock Development Corporation; member, Greater Pocatello Chamber of Commerce; Executive Board, Association of Idaho Cities; Chair, Idaho Heritage Festival; Chair, Pocatello Valley Aquifer Protection Group; Chair, Chief Foundation Board; Chair and Head of Fund Raising for Aid for Friends Homeless Shelter Board.

Mr. Chase provided the Committee with copies of the Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan. It contains a progress report and provides an overview and accomplishments from 2009 through 2012. (See Attachment 1).

GUB. APP'T.:

Director Gary Spackman, is a 26 year veteran of State government, and having served as the Interim Director for the Idaho Department of Water Resources (IDWR) for the past three years, has now been appointed Director. His term commenced July 10, 2012 and will expire January 1, 2015. He said that he is in full support of the candidates that are here for their confirmation hearing, as he has worked with them and can vouch for their dedication.

As Interim Director, he oversaw the activities of approximately 159 employees and to satisfy the current reduced budget, he streamlined the structure of IDWR. Some of his previously held positions include:

- Water Management Division Administrator
- Water Allocations Bureau Chief
- Western Regional Manager
- Water Distribution Section Manager
- Water Allocations Section Manager

Director Spackman's education includes a Bachelor of Science degree in Agricultural Engineering from Utah State University; a law degree (J.D.) from J. Reuben Clark Law School, Provo, Utah; and is a registered professional civil engineer. He served as a law clerk in Soda Springs and also practiced law there. The **Director** served as "Engineer in Training" at American Fork and Salt Lake City, Utah.

Presently, IDWR has 15 water initiatives for economic development. A few of the initiatives are: work on the Galloway Dam Project; help broker the Water Resource Board's commitment of \$1.5 million for managed recharge over the next five years; completing the Rathdrum Prairie Comprehensive Aquifer Management Plan; reducing the transfer backlog (500 to 80) and eliminating the water supply bank backlog (down from 200). The licensing backlog has been reduced from 3,500 to 2,500 and that has been due to the dedication of the staff, which he wished to give credit.

In the **Director's** closing remarks, he said that he had two conflicting responsibilities. One is about the use of water in the state for economic development and the other is to protect senior water right holders. He stated that there are tough decisions to be made and what he has to do is to apply a standard and that standard is: to review the facts as best as he can; evaluate them; try to find the staff; gather all the information; review the law; then apply the law to the facts and do it honestly.

Chairman Pearce stated that the interviews of the candidates have been completed and he thanked them for their participation. He invited the other Board members to sit at the chairs with microphones so that the discussion could continue.

DISCUSSION: **Senator Siddoway** asked IDWR Board members what they felt were the "hottest" issues confronting them. **Mr. Chase** replied that they are: the aquifer recharge; water storage sites; have uses of water identified; and enough money to do what needs to be done.

Senator Siddoway asked for an update on studies for storage in the Upper Snake. **Mr. Gary Raybould** said they had been working with the Bureau of Reclamation (Bureau), using funds appropriated by the legislature, for purposes of studies on the rebuilding of Teton Dam. They are about halfway through the study, working with the Bureau, who is analyzing several storage sites, some new, and some just raising the storage site a few feet. Part of the study is water conservation, aquifer storage, and other measures that makes more efficient use of the water.

Chairman Pearce asked, "What are we doing today that will impact the state eight to ten years down the road?" and "What do you see now that is either a threat or an area that will be needing attention?" **Mr. Alberdi** responded by saying that he was in a meeting and a report was given by our good neighbors to the South (Nevada). They are starting to see some housing growth in the Las Vegas area. The report was that they may come up as far as Ely and are transporting 80,000 acre feet of water back to Las Vegas. Because of the recession that we have gone through, **Mr. Alberdi** said that we have forgotten about what might be happening very close to us and suggested that we watch it closely.

Mr. Charles "Chuck" Cuddy reported on the drilling at Galloway. He said they are waiting for the report to indicate what kind of footings it will take. This has been one of his pet projects. Also, he said that being from North Idaho and on the western edge of the state, his perspective of our water is a little different, as we have a greedy neighbor (sometimes). **Mr. Cuddy** feels that his job is "to keep watching for holes in the fence."

Chairman Pearce thanked the appointees and members of the Water Resource Board for their participation and thanked them for their service to the people of the state of Idaho and their service to the state. He said that water is Idaho's lifeblood

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:25 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 28, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m. and said the first order of business would be to vote on the four Gubernatorial appointments to the Idaho Water Resource Board and the Director to the Idaho Department of Water Resources

MOTION: **Vice Chairman Bair** moved to send the name of **John Albert Stevenson**, appointed to the Idaho Water Resource Board, to the floor with a do pass recommendation. The motion was seconded by **Senator Siddoway**. The motion carried by **unanimous voice vote**. The floor sponsor will be **Senator Cameron**.

MOTION: **Senator Heider** moved to send the name of **Vince Alberdi**, appointed to the Idaho Water Resource Board, to the floor with a do pass recommendation. The motion was seconded by **Senator Brackett**. The motion carried by **unanimous voice vote**. The floor sponsor will be **Senator Heider**.

MOTION: **Senator Siddoway** moved to send the name of **Albert P. Barker**, appointed to the Idaho Water Resource Board, to the floor with a do pass recommendation. The motion was seconded by **Vice Chairman Bair**. The motion carried by **unanimous voice vote**. The floor sponsor will be **Chairman Pearce**.

MOTION: **Senator Lacey** moved to send the name of **Roger Chase**, appointed to the Idaho Water Resource Board, to the floor with a do pass recommendation. The motion was seconded by **Senator Stennett**. The motion carried by **unanimous voice vote**. The floor sponsor will be **Senator Lacey**.

MOTION: **Senator Tippetts** moved to send the name of **Gary Spackman**, appointed as Director to the Idaho Department of Water Resources, to the floor with a do pass recommendation. The motion was seconded by **Senator Stennett**. The motion carried by **unanimous voice vote**. The floor sponsor will be **Chairman Pearce**.

PASSED THE GAVEL: Chairman Pearce passed the gavel to Vice Chairman Bair, who will conduct the hearing for the Rules.

DOCKET NO. 13-0108-1203 **Vice Chairman Bair** said **Docket No. 13-0108-1203**, Rules Governing the Taking of Big Game Animals in the State of Idaho, found on page 51 of the Pending Administrative Rules book, said the normal everyday auction tags that Idaho Department of Fish and Game (IDFG) has, one can bid on them even if one has harvested a big horn sheep previously in one's lifetime. The **Vice Chairman** said the references are incorrect and he spoke with Ms. Kiefer, IDFG, and she recommended that the section be stricken or just the words that are incorrect. **Mr. Dennis Stevenson**, Administrative Rules Coordinator for the state, said that after the rule is codified, he can correct the mistake, without any action from the Committee.

DOCKET NO. 13-0104-1201 This docket is found on page 14 and **Vice Chairman Bair** asked **Senator Siddoway** to explain why he previously asked to have it held in Committee. **Senator Siddoway** said the reason was to give him time to review some of the ramifications this rule could cause, especially with some of the auction tags. He suggested deleting part of the rule. **Vice Chairman Bair** asked him to put it in a form of a motion.

MOTION: **Senator Siddoway** made the motion to adopt **Docket No. 13-0104-1201** except for Section 701, Subsection 02.c. The motion was seconded by **Senator Heider**. The motion **carried by unanimous voice vote**.

DOCKET NO. 26-0120-1201 **Ms. Tamara Humiston**, Deputy Director, Idaho Department of Parks and Recreation (IDPR), presented **Docket No. 26-0120-1201**. She stated that these changes address enforcement issues of existing fee rules that are critical to the parks' coming season enabling parks to provide for the safety and welfare of recreational users. The changes enhance the definition of winter use on park trails to provide safety for all recreational trail users and clarifies the parameters of reservation cancellation.

It is anticipated that the enforcement of existing rules for parking violations will generate approximately \$15,000 in fee revenue to state dedicated funds.

MOTION: **Senator Lacey** made the motion to adopt **Docket No. 26-0120-1201**. The motion was seconded by **Senator Heider**. The motion **carried by unanimous voice vote**.

DOCKET NO. 26-0120-1202 **Ms. Tammy Kolsky**, IDPR's Reservation Program Manager and Project Coordinator for the Passport Program, presented this docket, which is a pending fee rule. She said the proposed changes are as follows:

1. Establish a fee for a State Parks Passport at the rate of \$10.00 per vehicle per registration year;
2. Establish a replacement sticker fee for the State Parks Passport at the rate of \$2.00;
3. Establish a replacement sticker fee for the Annual Motor Vehicle Entrance Fee at the rate of \$5.00;
4. Remove the Second Vehicle Annual Passport, currently at the rate of \$15.00;
5. Remove the exemption on campers from paying the daily charge per motorized vehicle (fee to stay at \$5.00 per day).

MOTION: Following a short discussion, **Senator Tippetts** made the motion to adopt **Docket No. 26-0120-1202**. The motion was seconded by **Senator Stennett**. The motion **carried by unanimous voice vote**.

DOCKET NO. 26-0136-1201 **Ms. Kolsky** presented **Docket No. 26-0136-1201**, a proposed temporary rule. She stated the IDPR has expanded on-line services to include purchasing a three-day, temporary Park 'N' Ski pass. The current rule states the three-day pass is in the form of a hangtag and must be hung on the vehicle's rear-view mirror. A customer who purchases the three-day pass will receive an 8x10 document with the valid dates listed. This rule change removes the hangtag language and replaces it with language that the temporary three-day permit shall be displayed on the vehicles' dashboard.

MOTION: **Senator Brackett** made the motion to adopt **Docket No. 26-0136-1201**. The motion was seconded by **Senator Heider**. The motion **carried by unanimous voice vote**.

**DOCKET NO.
13-0116-1201**

Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), presented **Docket No. 13-0116-1201**, which is the Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. This rule allows trapping on Wildlife Management Areas (WMA) with a number of trappers to be limited by Regional Supervisors. It also cleans up a rule to allow consolidation of wolf trapping rules in another rules chapter. The justification for this rule is appropriate for the following reason: the rule confers a benefit to certain trappers, and is needed for the 2012 Trapping Season.

MOTION:

Senator Heider made the motion to adopt **Docket No. 13-0116-1201**. The motion was seconded by **Senator Tippetts**. The motion **carried by unanimous voice vote**.

**DOCKET NO.
13-0117-1201**

Ms. Kiefer presented this docket which is The Use of Bait for Taking Big Game Animals. She stated that what it does is to consolidate bear baiting and wolf trapping rules into one rules chapter. It also establishes gray wolf trapping requirements and methods of take and allows the use of legally salvaged road kill as bait for trapping wolves. It allows the use of a trapped wolf carcass without the hide attached as bait and eliminates requirements in Units 10 and 12 to remove bear baits from the field between the summer dog training season and fall season. The justification for this temporary rule confers a benefit to hunters, trappers, and outfitters and it is also needed for the 2012 Trapping and Hunting seasons.

MOTION:

Senator Heider made the motion to adopt **Docket No. 13-0117-1201**. The motion was seconded by **Senator Tippetts**. The motion **carried by unanimous voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Bair thanked the Committee for their work on the Rules and said that all the Rules have been heard and acted upon. He returned the gavel to the Chairman.

ADJOURNED:

Chairman Pearce adjourned the meeting at 2:40 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 30, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m.

He announced that a Gubernatorial appointment had been missent to this Committee and asked for a motion to send it back to the floor to be re-referred.

MOTION: **Vice Chairman Bair** moved that the Gubernatorial Appointment of Carol Mascarenas be returned to the floor to be re-referred to the proper committee. The motion was seconded by **Senator Siddoway**. The motion carried by **unanimous voice vote**.

MOTION: **Senator Brackett** stated that he has reviewed the minutes of January 18 and asked for their approval. The motion was seconded by **Senator Heider**. The motion carried by **unanimous voice vote**.

Chairman Pearce called on Mr. Tom Schultz, Director, Idaho Department of Lands (Department), to present his RS.

RS 21628 **Director Schultz** said this legislation is related to oil and gas conservation and it will replace the current members of the commission, who are also the State Land Board, with five Gubernatorial appointees. The appointed commission members would include one member knowledgeable in oil and gas; one member knowledgeable in geology; one member knowledgeable in water; one private land owner with surface and mineral rights in an area with oil and gas activity; and one private land owner without mineral rights.

The **Director** said the exact process for member selection has not been determined, but they will be appointed by Governor Otter to four year terms. The terms would be staggered initially to avoid all five terms expiring at the same time.

The legislation would also establish commission member terms, election of officers, commission member compensation, frequency of meetings, staffing, and other duties. Lastly, it allows the new commission to designate hearing officers, establish advisory committees related to oil and gas, and otherwise perform the duties associated with oil and gas regulation in Idaho. To help perform these duties, the new commission can either retain the Department as their administrative agency and the Department's Director as their secretary, or they may hire their own staff and secretary.

Regarding the fiscal impact, **Director Schultz** said the base appropriation previously established for the commission is adequate to cover the potential cost of commission meeting expense and member compensation. There is no additional impact to the General Fund.

Chairman Pearce stated that he may have a potential conflict of interest, as he has had oil and gas leases for 20-30 years.

Director Schultz closed his remarks by saying the Oil and Gas Conservation Commission supports this proposed statutory change.

MOTION:

Senator Siddoway made the motion to send **RS 21628** to print. The motion was seconded by **Senator Heider**. The motion carried by **unanimous voice vote**.

Chairman Pearce called on Ms. Sharon Kiefer, Deputy Director for the Idaho Department of Fish and Game (IDFG), to present IDFG's four bills.

S 1001

Ms. Kiefer said this bill amends Section 36-107, Idaho Code, to remove the obsolete job classification term of "state wildlife veterinarian" for purposes of agreement between the University of Idaho Caine Veterinary Teaching and Research Center (Caine Center) and the Department of Fish and Game for disease research regarding the interaction of disease between wildlife and domestic livestock. For some years prior to 2010, the Idaho State Department of Agriculture and IDFG jointly funded a state wildlife veterinarian to facilitate coordination of these issues in addition to funding their own agency veterinarian (i.e. 1.5 veterinarians per agency). Idaho Code directed coordination and agreement of the Caine Center with the specific state wildlife veterinarian for use of the \$100,000 of IDFG's funds that are annually transferred to the Caine Center. With more recent revenue conditions and improved coordination, funding the shared veterinarian was reduced to just funding a veterinarian for each agency, which has not resulted in a loss of service or coordination between either agency.

Ms. Kiefer said to ensure continued coordination regarding use of these funds, the bill directs the coordination and agreement on the use of IDFG's funds relative to interaction of disease between wildlife and domestic livestock to occur between the Caine Center and the Director of IDFG, who acts under the supervision and direction of the Fish and Game Commission.

Ms. Kiefer stated that IDFG requests the committee's support for this bill.

MOTION:

Senator Heider made the motion to send **S 1001** to the floor with a do pass recommendation. The motion was seconded by **Senator Cameron**. The motion carried by **unanimous voice vote**. The floor sponsor of this bill is **Senator Lacey**.

S 1002

Ms. Kiefer said this bill accomplishes two primary objectives and cleans up some terms: 1) It amends Section 36-111, Idaho Code, to exempt duplicate licenses and tags, which are classified as "Class 7" from the \$2.00 set-aside requirement for each combination or hunting license sold and from the \$1.50 set-aside for each pronghorn antelope, elk and deer tag. The rationale for this change is that these set-aside requirements were met at the time of the original license or tag purchase. For example, a resident elk tag costs \$29.00 and a duplicate tag costs \$5.50, excluding vendor fee. Also for reference, the \$2.00 set-aside from the licenses is for the purpose of acquiring access and for acquiring and rehabilitating big game ranges and upland bird and waterfowl habitats. The \$1.50 set-aside from the tags is for a combination of emergency winter feeding and control of depredation of private property by pronghorn antelope, elk and deer and control of predators affecting these species. Shifting the set-aside allocation from duplicate licenses and tags from the set-asides will not have significant revenue effect on them. For example, based on our Fiscal Year (FY) 2012 duplicate tag sales for 974 deer, elk and pronghorn antelope tags, there was only \$1,461 in revenue that went into emergency winter feeding and depredation.

2) The bill also amends Section 36-404, Idaho Code, to move disabled licenses into their own class, Class 9. This allows disabled licenses to be exempted from the \$2.00 set-aside requirement outlined in 36-111(b). The rationale for this change is that revenue from the disabled licenses is disproportionately directed to the set-aside account. For example, a resident combination license costs \$31.75 and a disabled combination license costs \$3.25, excluding vendor fee. Thus, for the regular license, six percent of the revenue is allocated to the set-aside but for the disabled license, 61 percent is allocated to the set-aside, which means that the revenue is not spread more evenly among all the department functions that support fishing and hunting. As provided in the fiscal note, the revenue still remains within the Fish and Game dedicated fund.

The bill also cleans up the term "antelope" to more appropriate term of "pronghorn antelope". They also added "permit" to the Class 7 duplicate reference to be more explicit about what is included in this class. **Ms. Kiefer** said IDFG requests the committee's support for this bill.

MOTION: **Senator Heider** made the motion to send **S 1002** to the floor with a do pass recommendation. The motion was seconded by **Senator Stennett**.

SUBSTITUTE MOTION: After much discussion, a substitute motion was made by **Senator Tippetts** to hold **S 1002** in Committee. The motion was seconded by **Senator Bair**. The motion carried by a **majority voice vote**.

S 1003 **Ms. Kiefer** stated that this bill consolidates licenses for resident youth and for nonresident youth, creating a "one stop shop" for youth licensing for hunting. The following illustrates their rationale for this change: currently, if you are a resident who is eleven in February and want to hunt turkeys that spring, you would have to purchase a Youth Small Game License. But, if you turn twelve in September and want to hunt elk that fall, then you have to purchase a Junior Hunting License. Both licenses carry the same cost.

Ms. Kiefer said that IDFG has had feedback that our youth license structure was confusing because of uncertainty about which license was required so they think this is good for customer service and for reducing barriers to youth hunting. Simplifying license structure also makes good administrative sense for IDFG. Unfortunately, they have to amend four sections of Idaho Code to accomplish the consolidation: 36-404, 36-406, 36-407, and 36-416. Some of the terminology in these sections have been revised.

Consolidation of the youth licenses does not change any of the statutory age limitations that are currently applied for hunting turkeys and big game, i.e. you would still need to be ten years of age at the time of hunting for turkeys and twelve at the time of hunting for big game.

Ms. Kiefer indicated that there will be a small fiscal impact to nonresident customers who might have only purchased the nonresident Youth Small Game License without progressing into purchase of the Junior Mentored Hunting License. However, she said they know that this is a very small component of their nonresident youth hunters; they typically sell about twenty times more of the Junior Mentored Hunting License. For example, in FY 12, they only sold 89 nonresident Youth Small Game Licenses. If some of these individuals also then purchased a Junior Mentored Hunting License, then the consolidation would actually save them \$18.25. But, if they are a customer who would have only purchased the Youth Small Game License, then the purchase of the consolidated Junior Mentored Hunting License will cost them an additional \$11.75 (excluding vendor fee).

This bill also clarifies that the nonresident disabled license for nonresident disabled veterans who are hunting in association with a qualified organization is a hunting license, not a combination license because only hunting is allowed with this reduced fee license for nonresident disabled veterans. IDFG requests the Committee's support for this bill.

MOTION:

Senator Siddoway made the motion to send **S 1003** to the floor with a do pass recommendation. The motion was seconded by **Senator Cameron**. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the floor sponsor of this bill.

S 1004

Ms. Kiefer said this bill creates a new three year license for adult licenses, junior licenses, resident senior licenses and resident disabled persons licenses. Purchase of a three year license would be voluntary because our existing lifetime license and annual licenses would still be available.

Ms. Kiefer stated that IDFG has been investigating aspects of their licensing that would create a more desirable product for their customers to meet both customer service and revenue objectives. They did an analysis of their fishing license database over about the last ten years and it showed that of customers that bought a resident fishing license for the first time, 30 percent did not buy again in ten years, five percent bought a license in all ten subsequent years, and 27 percent bought a license in five or more years out of ten, in a wide variety of patterns. They call this inconsistent license purchase "churn". They know they have a lot of customers who consider themselves hunters and anglers, but may not be a consistent license purchaser.

In looking for ways to reduce "churn" and to improve revenue and customer service, IDFG sent a survey to 9,500 hunters and anglers that asked for their input on several license proposals, including a three year license. They found relatively high interest in purchase of a three year license; interest was higher for residents than nonresidents and the highest likelihood of purchase was for sportsmen who were 18 to 24 years of age, with the least interest for those who were 65 and older.

Ms. Kiefer said they felt this was a fairly positive response for moving this concept forward. So, as part of their effort to innovate using their feasible and available licensing technology to avoid or defer asking for license fee adjustment, IDFG has proposed the three year license.

Ms. Kiefer said that if there is a license fee increase in the future, IDFG would likely see an increase of three year license buyers to 'lock-in' before the increase takes effect. The offset is that perhaps the number of license buyers who lock-in may be more than the lost revenue from the increase. They also recognize there may be concerns about durability of a license to last three years. Their license paper has been improved and the print is guaranteed for 18 months barring the unfortunate wash in your jeans or a dip in saltwater. They are looking into feasibility and cost of rewritable cards. **Ms. Kiefer** reminded the Committee that every time a sportsman comes in for a validation on their license, such as a two-pole or archery permit, they reprint the license with the validations. They also work with their customers who bring in a valid license that is damaged to issue a duplicate free of charge. **Ms. Kiefer** said IDFG requests the Committee's support for this bill.

MOTION:

Vice Chairman Bair made the motion to send **S 1004** to the floor with a do pass recommendation. The motion was seconded by **Senator Cameron**. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the floor sponsor for this bill.

ADJOURNED:

Chairman Pearce adjourned the meeting at 2:50 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 04, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/EXCUSED: Senator Siddoway

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m.

ANNOUNCEMENTS: The **Chairman** stated that JFAC had extended invitations to all committee chairmen to appear before them with budget requests and/or suggestions for their respective committees. **Chairman Pearce** ask that committee members submit their requests to him within the next few days so that they may be reviewed (by the full Committee) before a presentation is made to JFAC.

Chairman Pearce announced that Ms. Sharon Kiefer from the Idaho Department of Fish and Game has provided each committee member with a folder containing answers to their questions from a previous meeting. (See Attachments 1 and 2.)

Also, Mr. Dustin Miller, Administrator, Office of Species Conservation, submitted an "Issues Briefing" regarding Sage-grouse, Slickspot Peppergrass, Woodland Caribou, North American Wolverine, Gray Wolves, and the Salmon-Challis National Forest Biological Opinions. (See Attachment 3.)

HEARING: Appearing before the Committee for his confirmation hearing was William B. Booth, who has been appointed to the Northwest Power and Conservation Council "(Council)", to serve a term commencing January 15, 2013 and expiring January 15, 2016.

Mr. Booth stated that he was first appointed to the Council in 2007 by the governor and that he also serves as a member of the governor's cabinet.

In 2008 and 2009, he was elected Chairman of the Council and has served as Chairman of the Council's Fish and Wildlife Committee. Mr. Booth has had extensive experience negotiating state and federal settlement agreements and environmental permits in both the public and private sectors.

He grew up on a ranch near Post Falls and is a 50-year Idaho resident. He is a former U.S. Air Force Officer and retired Vice President of Hecla Mining Company. As an instructor for North Idaho College, he taught Micro and Macro Economics, Environmental Economics and Accounting. Mr. Booth holds a Bachelor of Science degree in Business from the University of Idaho and is a Distinguished Military Graduate. He earned a Master of Business Administration while serving in the Air Force. In his spare time, he enjoys exploring the Idaho back country, spending time with his family and is an avid fly fisherman.

Mr. Booth provided information regarding the Council's background. In the late 1960's and 70's was a time of discord and anxiety for electricity producers and consumers in the Northwest. Hydropower was the primary source of electricity and the demand for power was growing but the power supply was not. New resources were needed.

In the 1960's, the region embarked on an ambitious effort to build new thermal power plants - coal and nuclear. A coal plant was built at Centralia, Washington, and the Trojan Nuclear Plant in Oregon. Others were started but never completed. The failure is called "demand forecasting." **Mr. Booth** said the region's largest power supplier, the federal Bonneville Power Administration and its utility customers, simply guessed wrong about how much electricity would be needed in the future. There were also two other problems. First, there was a growing unease that new generating plants were the only solution to the problem of increasing demand for power and second, Snake River salmon runs were declining and many people thought the dams on the Columbia and Snake rivers were the primary cause. With these three problems, Congress realized it needed to act.

Mr. Booth stated that it took four years, but in 1980 Congress passed the Pacific Northwest Electric Power Planning and Conservation Act "(Power Act)". Senator Jim McClure played a key role. This Act authorized the states of Idaho, Montana, Oregon, and Washington to create the Council. The Council met for the first time that April. The Council is an interstate compact and each state governor appoints two members to the Council. The Council has three specific responsibilities and they are: 1) Develop a regional power plan that looks 20 years into the future and revise the plan every five years. 2) Have a program to protect, mitigate, and enhance fish and wildlife that have been affected by hydropower dams in the Columbia River Basin. 3) The Council is to conduct its business in public and also to inform and involve Northwest citizens in its decision-making.

With regard to the Council's current power plan, which was completed in 2010, they identified about 7,000 megawatts of new demand for power over the 20 year planning horizon. A majority of that new demand can be met with improved energy efficiency and the remainder with new natural gas-fired plants and renewable power.

Mr. Booth addressed the issue of the fish and wildlife program. The Power Act requires the Council to base the program primarily on the recommendations of fish and wildlife managers in the region. The program does address all of the so-called Four H's of fish and wildlife improvements - habitat, hatcheries, hydropower and harvest. The program is funded by Bonneville and in fiscal year 2011, the total was \$221 million. Of this, about \$41 million went to entities in Idaho including the Department of Fish and Game, tribes, and the Office of Species Conservation. Habitat improvements are a major focus of the program, and in many places these improvements are accomplished in conjunction with hatchery programs. Idaho's ongoing effort to restore Redfish Lake sockeye is an example of a program that combines hatchery production and habitat improvements involving state, federal, and tribal interests.

In closing, **Mr. Booth** talked about the value of the Power Act and the Council. Points addressed were: equality, common goals, public involvement, low-cost power, national leader in energy efficiency, enhanced environmental quality, cultural benefits and economic development.

There was no one in the audience to testify for or against Mr. Booth.

Chairman Pearce thanked Mr. Booth for his willingness to serve on the Council and said voting would be held at the next committee meeting.

HEARING:

Ms. Susan Buxton, Gubernatorial Appointee to the Idaho Parks and Recreation Board, was the next speaker. Her term commenced August 1, 2012 and will expire July 1, 2018.

Ms. Buxton said that her family has enjoyed outdoor recreation in Idaho for four generations. They participate in motorized, non-motorized and equestrian modes of recreational activities. In her work, she has had the chance to work in the acquisition, construction and funding of parks and pathways. She stated that she has also worked with several motorized recreational groups in permitting events on state and federal lands and believes that those experiences would benefit the Idaho Parks and Recreation Board.

Ms. Buxton's education includes Whitman College, Bachelor of Arts in Philosophy, Minor in Biology; Portland State University; and the University of Idaho College of Law, Juris Doctorate. She has been admitted to practice law in five Courts. They are: State Court of Idaho; Federal District Court of Idaho; Federal District Court of Oregon; U.S. Federal Court of Claims; and Ninth Circuit Court of Appeals. Ms. Buxton has served as a Judicial Law Clerk for Judge James A. Redden and also for Roger A. Swannstrom, Idaho Court of Appeals. Other employment includes serving as City Attorney to over twenty Idaho cities and dozens of local government entities. During the last five years, she has appeared more before quasi-judicial bodies than in court rooms. During the recent real estate boom, most of those quasi-judicial matters related to land use applications.

She has also represented clients in proceedings before courts and agencies including: the U.S. Forest Service, Bureau of Land Management "(BLM)", Interior Board of Land Appeals, and federal cases in Oregon, Idaho, Washington, D.C., Colorado, Guam, Arizona and Montana. Matters addressed were issues from mining, grazing, recreation, land exchanges, depredation, air quality, water rights, to pollution control on both the federal and state levels. She has also assisted clients appearing before the Idaho Public Utilities Commission.

The Idaho Parks and Recreation Board is tasked with setting general policy direction for leaders and staff at the Idaho Department of Parks and Recreation "(IDPR)". In the press release of Ms. Buxton, IDPR Director Nancy Merrill said that Ms. Buxton will be a wonderful addition to the board, as she has extensive working relationships with recreational users throughout the state of Idaho, and broad-based experience working with local, state and federal agencies.

Vice Chairman Bair asked Ms. Buxton to describe her goals for IDPR and also, what would she improve? **Ms. Buxton** replied that she thinks the most important thing is to continue to maintain availability to the parks for the citizenry. By doing that, she said they need to work closely with the local governments and interested entities. Local vendors help support the parks and again, she stressed the need to work with them.

Vice Chairman Bair then asked her to identify problems associated with All Terrain Vehicles (ATVs) and ATV trails in Idaho. **Ms. Buxton** responded by saying that one of her previous jobs was working with ATV groups across the U.S. for trail access on public lands. Motorcycle groups only need a single track trail and ATVs need a wider track trail, but working with those groups and the BLM, it brings them together and that brings in revenue.

Senator Brackett inquired if Ms. Buxton would continue to register as a lobbyist and would she also continue in her law practice? Ms. Buxton said that she had no choice but to continue in her law practice and with regard to lobbying, it was working with local government entities dealing with public finance issues. She stated that she is not registered to lobby this year and she sees no forthcoming legislation from her clients that would require her to.

Senator Heider inquired about the Billingsley Creek State Park in Hagerman Valley and the development of it. **Ms. Buxton** said it is a unique park, especially for equestrians. It is also suited for all types of outdoors interests, such as camping, fishing, canoeing, hiking and looking for artifacts.

There was no one in the audience in testify for or against Ms. Buxton.

Chairman Pearce thanked Ms. Buxton for appearing before the committee.

HEARING:

Ms. Joan Hurlock, Gubernatorial Appointee to the Idaho Fish and Game Commission, was the next speaker. Ms. Hurlock was appointed to the Commission on July 1, 2012 and will serve until June 30, 2016.

The following information was provided by Ms. Hurlock:

When asked why she would like to serve on the Commission, her response was, "As the daughter of a Fish and Game Warden, the management and protection of wildlife and habitat was an integral part of my upbringing. I would like to serve on the Commission to ensure a perpetual supply of wildlife for future generations. Educating our youth on responsible harvesting practices is extremely important and I wholeheartedly support Hunter Education for children and adults alike. Idaho's legacy of hunting, fishing, and trapping needs to be preserved and our right to do these things needs to be cherished and protected."

Organizations that Ms. Hurlock is currently a member of includes the Buhl Chamber of Commerce, Magic Valley Republican Women, National Rifle Association, Sportsmen for Fish and Wildlife, lifetime member of Front Sight, a parent helper for the Boy Scouts of America, a parent helper for the 4-H Shotgun Club and the Southern Idaho Draft Horse and Mule Association.

Ms. Hurlock's civic duties have included Board of Directors, Buhl Chamber of Commerce; Vice Chair of School Board, Xavier Charter School; Treasurer, Southern Idaho Draft Horse and Mule Association; Twin Falls County Precinct Committee person; and Correspondence Secretary, Magic Valley Republican Women.

Ms. Hurlock received her Bachelor of Science Degree in Forensic Science from California State University at Sacramento. For the next three years, she worked as a forensic chemist with the Bureau of Alcohol, Tobacco, and Firearms and with the Explosives and Arson Unit in Walnut Creek, California. Later, she moved to Washington, D.C. and was a federal police officer and also a member of the United States Capitol Police. Ms. Hurlock is presently owner and president of The Body Works, Inc., in Buhl, Idaho.

Ms. Hurlock stated that she has been involved in the outdoors her whole life. She has involved her children in the outdoors also, enrolling them in the Hunter Education Class, and attending that class with them.

Ms. Hurlock said that she would like to address her qualifications. She said that Idaho Code says that to be on the Commission, you have to be a bona fide resident of the region in which you are applying for, declare your political party, and (she quoted) "No person shall be appointed a member of said commission unless he shall be well informed upon and interested in the subject of wildlife conservation and restoration." She said that she hopes to demonstrate that she is interested in and well informed on the subject of wildlife conservation and restoration. She said that she has read every wildlife game management plan that Idaho Fish and Game has, as well as the entire Fish and Game Code. Also, she stated that she is the only Commissioner who has taken the wolf trapping class.

As for her reasons to want to be on the Commission, **Ms. Hurlock** said her reasons are: 1) For her love for Idaho; 2) For the children; 3) Honor her father; and 4) Educate the public about the history of hunting and conservation.

TESTIMONY: Testifying in opposition to the appointment of Ms. Hurlock were the following: **Doug Palmer** and **Jack Oyler**. Also testifying in opposition and submitting written testimony were **Monte Bruhn**, **Jevon Benson**, and **Chantelle Benson**. Copies of their testimony are on file. (See Attachments 4, 5, 6.) Written testimony was submitted by **Priscilla Sisson** who also opposes the appointment. (See Attachment 7.)

TESTIMONY: Testifying in support of Ms. Hurlock were **Dyke Nally**, **Billie Dinges**, **Matt Bridges** for **Scott Claiborn** (See Attachment 8), and **Bill Benkula** (See Attachment 9).

TESTIMONY: **Ms. Bonnie Butler**, representative from the Governor's Office, was asked to clarify some questions regarding the interviewing process. She stated that her position is to act as coordinator for the interviewing panel.

**ANNOUNCE-
MENT:** **Chairman Pearce** said that concluded the hearing. He then announced that Wednesday's Committee meeting will start at 1:15 p.m. in this room, followed by a Joint Meeting at 1:30 p.m. in the auditorium

ADJOURNED: The **Chairman** adjourned the meeting at 4:00 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 06, 2013

TIME: 1:15 P.M.

PLACE: WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:15 p.m. to conduct the Committee business before joining the House Environment, Energy, and Technology Committee in the Auditorium at 1:30 p.m. for a Joint meeting.

Committee consideration was given to the following people regarding their Gubernatorial appointments: William B. Booth, Susan Buxton, and Joan Hurlock.

MOTION: **Senator Siddoway** moved to send the gubernatorial appointment of William B. Booth to the Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the floor sponsor.

MOTION: **Senator Brackett** moved to send the gubernatorial appointment of Susan Buxton to the Idaho Park and Recreation Board to the floor with a recommendation that she be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the floor sponsor.

MOTION: **Senator Heider** moved to send the gubernatorial appointment of Joan Hurlock to the Idaho Fish and Game Commission to the floor with a recommendation that she not be confirmed by the Senate. **Senator Siddoway** seconded the motion.

SUBSTITUTE MOTION: **Senator Brackett** made a substitute motion and moved to send the gubernatorial appointment of Joan Hurlock to the Idaho Fish and Game Commission to the floor with a recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion.

ROLL CALL VOTE: **Chairman Pearce** called for a roll call vote. Senators Brackett, Tippetts, Stennett and Lacey voted aye. Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway and Heider voted nay. The substitute motion failed.

ROLL CALL VOTE: A roll call vote was taken on the original motion. Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway and Heider voted aye. Senators Brackett, Tippetts, Stennett and Lacey voted nay. The original motion carried. **Senator Heider** will be the floor sponsor.

MOTION: **Senator Siddoway** moved for the approval of the minutes of January 23. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Tippetts** moved for the approval of the minutes of January 25. **Senator Siddoway** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Lacey** moved for the approval of the minutes of January 28. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Vice Chairman Bair** moved to print **RS 21891, RS 21892, RS 21893, RS 21894 and RS 21896**. He stated that they are Concurrent Resolutions to reject dockets, or parts thereof. **Senator Cameron** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Tippetts** moved to print **RS 21886**. He said this RS is legislation to establish statutory framework for the coordination of all activities related to the introduction or reintroduction of threatened or endangered species. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Tippetts** moved to print **RS 21887**. This RS provides for the use of high visibility shades of orange paint relating to trespassing prohibitions. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**.

RECESS: **Chairman Pearce** said that the Committee's business has been taken care of. He called for a recess of five minutes and announced that the Committee will reconvene in the auditorium for a Joint meeting with the House Environment, Energy, and Technology Committee.

CONVENED: **Chairman Pearce** called the Joint meeting to order at 1:35 p.m. He welcomed the audience that was at near-capacity in the auditorium and Governor Otter, who will speak later. He also acknowledged Chairman Raybould, Chairman of the House Environment, Energy, and Technology Committee.

Today's program is a presentation on "Idaho's Nuclear Industries - Past, Present & Future", coordinated by Ms. Pat Barclay, Director of the Idaho Council on Industry and Environment (ICIE). Introducing the speakers will be Mr. Randy McMillan, President of ICIE.

SPEAKER: **Mr. McMillan** said this is the 23rd workshop sponsored by ICIE. He then welcomed **Governor Otter** who is the first speaker.

SPEAKER: **Governor Otter** thanked the Committees for allowing him to be on this floor and to address them regarding the issues that the state is facing. With regards to the report that was given out (See Attachment 1), the **Governor** said he wanted to thank Jeff Sayer, Chairman of the Leadership in Nuclear Energy (LINE) Commission (Commission) and other members of the Commission for undertaking this project.

The report clearly points out that the environmental cleanup envisioned by the Governor's predecessors has been realized, while at the same time, it established the Idaho National Laboratory (INL) as the nation's leading research and development laboratory. **Governor Otter** said that he concurs wholeheartedly with the Commission's assessment that the INL is a significant state asset and with that benefit, Idaho must exercise leadership to ensure that this asset is maintained and enhanced for the foreseeable future. He stated that this final report provides a solid road map for achieving this objective. The **Governor** also stressed that he would like the legislature to carefully examine the findings of the LINE Commission, especially the section that distinguishes the difference between the 55 gallon drums that were dumped in Idaho prior to the 1995 settlement agreement, and the methods and technologies that are being used today.

Governor Otter said the decision to terminate Yucca Mountain also demands the state's attention and he appreciates the LINE Commission's careful review of that particular issue. The **Governor** feels there are two things that need to be done. His first recommendation is to establish a nuclear advisory council. The second recommendation is to work with neighboring states and invitations will be sent out to the Western governors to tour INL.

In closing, the **Governor** expressed his appreciation, again, to the LINE Commission's exemplary work and he hopes the legislature will join him in reviewing the final report to identify action items that will advance the critical mission of the INL and Idaho's nuclear related industries.

Chairman Pearce thanked Governor Otter for his presentation to the Joint Committee.

SPEAKER:

Speaking next was **Mr. Jeff Sayer**. He said that he will provide a brief overview of the process, talk about the recommendations, and answer questions at the end of the presentation. **Mr. Sayer** said that he, too, wanted to recognize the Commission members for the work that they have done; the Shoshone-Bannock Tribe for participating in the process; the citizens that brought forth their views; and especially to Brian Whitlock and Megan Ronk who "carried the Commission on their backs."

Mr. Sayer said that twenty years ago, Governor Andrus and Governor Batt exercised leadership to protect our state. Today, Governor Otter is exercising leadership to protect our state. Previously, it was an environmental issue. It still is an environmental issue, but more so, it is an economic issue, stated **Mr. Sayer**.

The INL is a significant state asset. It is well-positioned to capture a significant share of the Department of Energy's (DOE) funding directed at nuclear energy and nuclear technologies, and it will benefit from these key assets: The Naval Reactors Facility, the National and Homeland Security Capabilities and Energy and Environment Research. The last economic impact study was done by Boise State University, and it revealed that INL is responsible for 24,000 jobs in Idaho and contributes over \$3.5 billion to Idaho annually. **Mr. Sayer** said that to replace INL would be virtually impossible. He said the question that is before this body is - "How do we retain it, build it, grow it and not loose it?"

Mr. Sayer stated that the colleges and universities in Idaho have degree programs that go all the way from the technician level to research Ph.D. levels that are world renowned. The Center for Advanced Energy Studies (CAES) is a research and education partnership, formed in 2005, between BSU, Idaho State University, the University of Idaho and the INL. The center is an excellent example of the current collaboration that exists among the three universities and together with the INL is becoming a leading national resource for the development of innovative energy technology. The CAES facility in Idaho Falls – and the technical expertise housed within – is an additional innovative mechanism Idaho's universities can employ to meet the research and nuclear workforce needs of the future.

Idaho universities have become very successful in the competition for federal nuclear energy research funding. Idaho is the third highest in the nation receiving federal CAES funding. As a result of this and other successes, interest has been expressed in expanding both the physical CAES facility in Idaho Falls and the geographic reach of CAES, cementing the CAES role as a regional energy asset.

Mr. Sayer said emphatically - "we cannot, ever, sacrifice our environment." In making sure that the Snake River Aquifer is protected and the principles of the Settlement Agreement is established, it has to be maintained as a high priority. From the 1950's through the early 1980's, nuclear waste disposal and operational practices left an environmental legacy that did not receive sufficient attention until the 1990's. Those prior practices created environmental issues that had to be addressed, including the risk created to the Snake River Plain Aquifer. Past activities at the INL site that ultimately posed the greatest risk to contaminating the aquifer were:

- (1) Use of injection wells to dispose of solvents and other wastes;
- (2) Pipes and valves that leaked radioactive liquid; and
- (3) Contaminated material from Rocky Flats, Colorado that was disposed of by burial at the INL site.

These practices have been stopped, and actions continue to be taken to mitigate their impact. As a result, the risk to contamination of the aquifer continues to decline.

As we approach the midpoint of the 40 year Settlement Agreement, the LINE Commission took stock of cleanup progress achieved under the Agreement. So far, 959 of 964 cleanup milestones for the INL site have been met on time. Thousands of shipments of nuclear wastes buried at the site have been sent to New Mexico's Waste Isolation Pilot Plant (WIPP) facility for disposal, and spent fuel on site has been transferred from wet to safer and more robust dry storage. The environmental risks at the INL site have been dramatically reduced, and much of the waste that remains on site is now in forms and storage configurations that provide more secure isolation from the environment. Yucca Mountain in Nevada was selected by Congress in 1987 to host a permanent repository.

For decades, the nation's environmental standards for disposing of radioactive materials and chemical wastes were based on principles of isolation, dilution and minimizing exposure. In short, it was viewed as acceptable to dispose of certain nuclear waste in drums and boxes, buried in the ground in remote areas in pits and trenches, then covered with dirt. Later, an asphalt pad was constructed and barrels and boxes of waste were stacked in anticipation of being moved at some point in the future in a permanent disposal facility outside of Idaho. Protecting Idaho's environment and the Snake River Plain Aquifer has been and must remain the highest priority for the state.

The LINE Commission believes it is important to note that not all sources of nuclear waste pose a similar threat to the environment. The immediate situation illustrates the significance of this point: both buried transuranic waste and liquid tank wastes are receiving the highest priority for federal funding because they pose significantly more risk to the environment. Transuranic (TRU) wastes are trash, tools, clothes and related materials contaminated by man-made elements that are heavier than uranium generated by the U.S. nuclear weapons complex during the Cold War. Large quantities were shipped from the Rocky Flats Plant in Colorado and buried or stored at the INL site until the 1980s. This is what is in the ground in Idaho that is being exhumed now.

Mr. Sayer said that the Settlement Agreement requires DOE to have all the remaining liquid waste in underground tanks treated by the end of 2012. A facility was constructed - the Integrated Waste Treatment Unit (IWTU) - to treat the liquid waste. During the startup testing phases, critical IWTU equipment experienced technical difficulties and has delayed the scheduled processing. As a result, DOE has notified the state of Idaho that it will miss a Settlement Agreement milestone. The liquid waste sits in a safe form in a storage vessel, but it needs to be processed and turned into a dry granular form. This is the one deadline that was missed.

Mr. Sayer stated that disposal is permanent disposition of the waste. Fuel storage is significantly different. That is what today's topic centers around. The industry has figured out how to dispose of waste, but the big part of the national discussion right now is how to take care of the spent fuel rods as they have more life left in them. Spent fuel is stored in water for cooling and shielding purposes for a period of time, then put into dry storage containers. They are then enclosed in a stainless steel assembly and put in a concrete sleeve. There are both horizontal and vertical storage facilities.

It is important for INL to stay competitive in order to continue to receive research dollars. Yucca Mountain is going to be the permanent repository for the fuel canisters, and in the Settlement Agreement, it has Idaho's waste scheduled to leave our state in 2035. The Administration just announced that their new target for a permanent repository is 2048. The reality is with Yucca Mountain being shut down, Idaho doesn't have a place for the waste to go.

Mr. Sayer said that Idaho is not recommending interim storage, but it is acknowledging that it is an option in front of us as a state. There are four distinct categories of nuclear-related industrial opportunities that exist in Idaho. They are 1) Existing Idaho companies with nuclear specialties; 2) Out-of-state companies interested in Idaho; 3) Nuclear related industries; and 4) Consent-based interim storage. Should Congress act on this recommendation and provide access to the \$28 billion balance in the Nuclear Waste Fund, this could be a "gigantic industrial opportunity" for interested states. Dr. Peter B. Lyons, DOE Assistant Secretary for Nuclear Energy, offered that description of what awaits states that embrace broader engagement in the nuclear energy sector. The amount that goes into the fund every year is \$750 million.

Mr. Sayer said there are six recommendations, and they are: 1) To work cooperatively to make sure the cleanup is finished; 2) Idaho needs to be at the table and exercise leadership; 3) Need to focus on attracting nuclear businesses; 4) Incredible opportunities to support Idaho's universities and INL in their research capabilities; 5) Advocate for CAES to be a regional facility; and 6) Fill the need for a workforce.

Mr. Sayer said that in the Settlement Agreement, there are three things that cannot be changed and they have to be maintained going forward. 1) It has to protect the cleanup; 2) It has to protect and maintain the environment as the top priority; and 3) There are provisions in the Agreement that holds the government accountable. There is a fine of \$60,000 a day written in the Agreement, but it is subject to caveats, such as appropriation by the federal government. The fine is not adjusted for inflation, so it may not be a lot of money. **Mr. Sayer** stated that the only reason to change the Settlement Agreement would be to improve it.

SPEAKER:

Senator Larry Craig said it was good to be back and to comment on this important subject. Some would suggest that the lab (INL) has no purpose and others want it to go away because they are opposed to nuclear energy. The lab that Idaho has today is operating in the context of today's knowledge and today's science, not in the past. It is there because of the Agreement that has been talked about. It is unique and has directed the DOE to proceed in a manner that is responsible. **Senator Craig** said there may be a need for change in the future, depending on mission, dynamics and understanding. He likened it to the Constitution which has been changed 27 times in 200 years, but it is still the same basic document.

The **Senator** stated that there are those who are opposed to nuclear facilities, those who oppose coal, and others who say gas is as dirty and dangerous to the American people as coal. He said there is one clean source of energy in the world and that is a nuclear reactor fueling a generating facility to produce electrical power. Due to cost and the economy, probably not many will be built in the U.S., but there are hundreds being built across the world today and many planned for future construction.

So the need for expertise and what we can offer here in Idaho, both to our nation and to the world, is dynamic in every sense, and there is nothing else like it in the world and that sets Idaho apart.

SPEAKER: **Mr. John Koteck**, Staff Director, Blue Ribbon Commission on America's Nuclear Future, was the next featured speaker. He stated that Idaho's role in this is one of leadership. There are billions of people on this planet who don't have electricity, and the only way of cooking their food is to burn biomass. Meeting the demands of a hungry world demands all the resources that we have, and nuclear energy is a long-term energy source. Idaho is the place where nuclear energy for electricity generation was born and demonstrated. He said the second point he wanted to make was the difference between storage and disposal. The lab is a capability machine and our job is to develop the capabilities that the country needs to solve really hard problems. The reason the lab exists is nuclear energy.

Mr. Koteck said that dealing with the high priority risks to the environment and the aquifer are the injection wells, buried waste, and improper and inappropriate practices. Those activities have been stopped and are coming close to being remediated. He feels the Settlement Agreement has been very effective. He said the state needs to remain vigilant and use the best science and technology we know of. **Mr. Koteck** said that he appreciated the contribution of Commission members, Governor Otter and leadership.

SPEAKER: **Dr. Mark Rudin**, Vice President of Research and Economic Development, BSU, was the next speaker. He indicated that he would speak about the report and the role that the universities play in INL. There are a number of initiatives that are outlined in the report.

The Idaho universities all support the INL objective of becoming the premier U.S. national laboratory in nuclear science and engineering research and have active programs focused on nuclear energy. In recent years the universities have invigorated their nuclear programs, and it is clear to the faculties and the administrations that the future of these programs is tied directly to INL success. In nuclear science and engineering, the three Idaho research universities have nearly 15 faculty and 400 students in degree programs ranging from the Associate in Science (A.S.) to Doctor of Philosophy (Ph.D.) degree. Research areas include health physics, fuel cycle applications, nuclear physics, reactor physics, material science, nuclear forensics, and safety, security and safeguards. The universities have a range of experience and capabilities in education, research and service in these areas.

Dr. Rudin stressed the importance of the Center for Advanced Energy Studies (CAES). It is a research and education partnership formed in 2005 between the three universities and INL and is becoming a leading national resource for the development of innovative energy technology. Idaho universities have become very successful in the competition for federal nuclear energy research funding. These research funds are awarded through DOE's Nuclear Energy University Program; of the state awarded NEUP funding since 2009, Idaho received the third highest amount, \$13.8 million.

Dr. Rudin said that on behalf of the universities, he would like to thank the governor, his office and the legislature for the investment that has been made in IGEM. That money has directly impacted CAES and the universities as a whole, and is providing resources so that students can progress and go through graduate studies.

Time was allowed for some questions from the Joint Committees

ADJOURNED: **Chairman Pearce** thanked the presenters for their information and also for the report of the LINE Commission. He then adjourned the meeting at 3:05 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 11, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts and Lacey

ABSENT/EXCUSED: Senator Stennett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:32 p.m. and said the first order of business would be to approve some minutes.

MOTION: **Senator Bair** moved that the minutes of January 30th be approved. **Senator Siddoway** seconded the motion. The motion carried by **unanimous voice vote**.

WELCOME: **Chairman Pearce** welcomed the mining industry personnel who will present today's program. Special recognition was given to Senator Larry Craig. Also introduced was Ms. McKinsey Lyon who will be the program's moderator.

Ms. Lyon works for Gallatin Public Affairs and said she represents a handful of the companies here today. Her plan is to have each entity present for ten minutes and after everyone has presented, if time permits, there will be "Q and A" time. The focus of the presentations will be in regards to the permitting process and the economic impact of exploration from the perspective of both the junior exploration companies and the more senior companies with operations already running in Idaho.

SPEAKER: **Mr. Jack Lyman**, Executive Director, Idaho Mining Association, made a presentation of slides and a talk regarding the economic impact that mining has on Idaho by its six operating members. These six companies produce about 85 percent of the minerals and employ about half of the people in the industry, as well as paying 65-70 percent of the wages paid related to mining.

Mr. Lyman stated that Steven Peterson, Research Economist with the College of Business and Economics at the University of Idaho was employed to create a study, with the result being the economic impact made by the employment, wages and purchases of the mining industry. Thirty-one hundred people were employed and their wages amounted to \$267 million. In 2011, \$1.03 billion was added to the gross state product. The average wage per employee is about \$85,000, including benefits. As a result of the 3,100 people employed, another 5,000 jobs are generated by the mining industry. The total of those 9,000 jobs create \$523 million. Of the 3,100 mine workers, \$102 million is generated for state and local taxes. (See Attachment 1).

SPEAKER: **Mr. Del Steiner**, President and CEO of Premium Exploration, was the next speaker. He said they are operating in the Elk City area and the project area is 18 miles long and 3.5 miles wide. They are looking for new mines but there are lots of old mines there. **Mr. Steiner** said it was a good way to explore for precious metals. The drill rig that is in use is on rubber tracks, so it makes very little impact going through the forest, and requires very little road to travel.

The Buffalo Gulch Gold Mine was slated to go into production in 1992 by another mining company but was stopped because of the wetlands by the Corps of Engineers during the Clinton administration. Now, there are multiple deposits with growth potential. They are the Deadwood deposit, the Buffalo Gulch deposit and the Friday-Petsite deposit.

Premium Gold believes in jobs and the economy. They started drilling in 2009, have spent over \$15 million and employ up to 20 people at a time. However, in 2011, they employed 40 people. As they continue to grow, they expect to employ up to 500 people. **Mr. Steiner** stated that as a company, they support the local economy and participate in community activities. He also is a lifelong resident of Idaho, received his education here, and is an environmentally conscious citizen. (See Attachment 2).

SPEAKER:

The next speaker was **Ms. Anne Labelle**, Vice President of Midas Gold Corporation. She introduced three coworkers - Jeffrey Root, Jane Suggs and Rocky Chase.

Midas Gold's project is the Golden Meadows Project located in the historic mining area of Stibnite, in Valley County. It is a redevelopment of an area actively mined from 1928 to 1997 with concurrent reclamation. They also have three other pits in the area, namely Yellow Pine, West End and Hangar Flats. The minerals they are looking for are gold and antimony.

Ms. Labelle stated that the company wants to do what is right by developing a sustainable project. They will design for closure; protect and enhance water quality, fisheries, wetlands and groundwater; engage, inform, consult and consider stakeholders' input; and demonstrate significant net benefits. She said that if they are able to mine the area, they hope to leave the land better than they found it.

The company is taking a proactive approach and have had a positive local impact, as they are hiring locally, using local suppliers and contractors and participating in local activities. Regarding environmental affairs, they are doing more than is required by addressing historic legacy impacts, voluntary remediation and stakeholder engagement.

Ms. Labelle said they are the largest private employer in Valley County and approximately \$45 million was spent in Idaho in 2012. If, in the future, they are able to open a mine, they estimate there would be 400 direct employees; 1,000 indirect jobs created; and an average annual payroll of approximately \$20 million. Midas Gold is a publicly traded company and have investors. The biggest question from the investors is in regards to timing of the permits. The federal time lines are a great concern to them as it takes a long time. **Ms. Labelle** said that time means everything to them and they would like to shorten that up. (See Attachments 3 and 4).

SPEAKER:

Ms. Erika Stoner, Mine Manager for Agrium/NuWest, presented next. She introduced Ms. Katy McKinley, the Mine Permitting Manager and said that Senator Tippetts is her Public Relations Manager. **Senator Tippetts** asked to speak and said that he not only worked for Agrium, but Ms. Stoner is his supervisor.

Ms. Stoner said that southeast Idaho and Wyoming are locations for some of the richest phosphate ore concentrations in the U.S. Phosphate is primarily used as crop nutrient (fertilizer), pharmaceuticals, industrial products and in food and beverages. The Conda Phosphate Operations produces fertilizer products and is one of the largest facilities in the U.S. It has approximately 250 employees at the plant. Crop Production Services is their retail outlet and it supports their wholesale operations as well. It provides fertilizer, seed and agronomic services and has 300 employees in Idaho and thousands of employees across North America.

The current and planned operations are in North Rasmussen, Lane's Creek, Rasmussen Valley, North Dry Ridge, Husky 1 and Husky 2. The North Rasmussen Ridge Mine has approximately 240 employees and has an excellent safety record. The proposed Rasmussen Valley Project began permitting in 2010 and production is expected in 2017.

Most of the lands they utilize are federal or have a federal compliance which involves the National Environmental Protection Act (NEPA). The NEPA process is scoping (agency and public input); environmental impact analysis; draft environmental impact statement; public comment; final environmental impact statement; and record of decision. Agrium recognizes that collaboration with governmental and non-governmental agencies, as well as the public, is critical to the success and sustainability of phosphate mining in Idaho. (See Attachment 5).

SPEAKER:

Mr. Bill Scales, President of Formation Capitol Corporation, U.S., was the next presenter. He stated that Formation is an Idaho based company and is a producer of high period cobalt. Cobalt is a strategic metal that is critical in many applications in the defense and aerospace industries. Currently, the United States consumes 60 percent of the world's cobalt production.

The Idaho cobalt project is comprised of a mine in the Salmon-Challis National Forest, located in the Blackbird Mining District approximately 20 miles west of Salmon. There is a hydrometallurgical facility located near Kellogg and access is by Forest Service roads.

Mr. Scales said that after spending ten years in the NEPA process, Formation was able to secure all the permits that were required for the Idaho Cobalt Project. This past summer, construction was started on building access roads and putting in service features. It is an underground mine with a small environmental footprint on National Forest Lands and will be 100 percent reclaimable. There will be no tailings pond, but tailings will be disposed of in a lined storage facility and water discharge will meet drinking water quality standards. Currently, the Idaho Cobalt Project has a ten year mine life.

The current hydrometallurgical facility near Kellogg has a leach section, a copper refining facility and a precious metals refinery. The precious metals refinery is currently in operation and they are looking to expand.

Mr. Scales said that during the construction phase, they anticipate employing up to 200 contractors and consultants. At full production, they will have 160 permanent employees. The annual payroll during production is estimated to be about \$10 million, with \$1.5 million in taxes to be paid by employees, and approximately \$5.8 million in corporate taxes. (See Attachment 6).

SPEAKER:

Mr. Kirk Williams, Corporate Counsel and Holdings Manager for ISR Capital, spoke next. He stated that their focus is natural resources in the immediate region of Idaho and portions of the surrounding states. They procure capital and invest capital in underwritten projects and manage those investments. **Mr. Williams** said that there are states that have over regulated, such as Montana, and now has no mining industry.

SPEAKER:

He then introduced **Mr. Dhwanit Pambhar** who is the economist for the company. **Mr. Pambhar** provided statistics, furnished by the National Mining Association, Bureau of Labor Statistics for 2010. (See Attachment 7).

SPEAKER:

Next to speak was **Mr. Christopher Guill**, President of Goldhill Reclamation and Mining. He said it is one of the youngest and smallest mining companies in Idaho. They are currently working in Quartzburg, near Placerville, and believes there is tremendous potential in this area. His family has invested their own money, as has ISR Capital as their primary partner, in putting this project together.

A reclamation project was just completed where 200,000 tons of mine tails were removed in the Quartzburg district. In closing, **Mr. Guill** said their goal is to bring jobs and employment to Boise County.

SPEAKER:

Closing out the presentations on mining in Idaho was **Mr. Ernest Simmons**, President and CEO of Atlanta Gold Corporation. He has been involved in Atlanta Gold since January, 2008, but his experience in Idaho began 35 years ago when he came from Canada to develop the Blackbird Mine in Cobalt. **Mr. Simmons** said that he and Idaho have a long history in mining and he believes mining should be an integral part of our future.

The Atlanta Gold mine is located near the historic mining town of Atlanta, Idaho, approximately 100 miles northeast of Boise. The site was originally mined in the 1860's, and for a time, the gold was used to fund the Confederate Army during the Civil War. Their current activity is on 2,500 acres consisting of private and leased lands from the U.S. Forest Service, where they conduct numerous sampling and exploration programs to provide them an estimate of the resources. **Mr. Simmons** stated that they anticipate becoming fully-permitted and operational by 2016 and have a resource recovery schedule that will take them through a minimum 30 years.

Mr. Simmons said that Atlanta Gold accepted the site with all of its legacy issues. One of those legacy issues has been the leaching of arsenic into the Middle Fork of the Boise River due to old mining practices. This problem persisted for many years. For the last five years, they have worked to resolve this issue and he is happy to report that they have installed a passive filtration system and it is successfully removing the arsenic from the water that flows into the river.

Another challenge has been trying to come into compliance, but their Plan of Operations has never been accepted nor approved. Finally, after much time and expense, a court ruling supported their Plan of Operations and that the plan would be executed in cooperation with the U.S. Forest Service. The fine imposed by the court is a minimum of \$2 million dollars. **Mr. Simmons** said that Atlanta Gold does not own, nor lease the land, but they have invested over \$2 million in water treatment, tunnel maintenance, road maintenance, and chemicals for treating the water.

Mr. Simmons indicated that if they could operate their mine, it would generate 400 jobs for families in Idaho and it would add significantly to the tax base from circulating dollars within the business community. (See Attachments 8, 9 and 10 for additional information).

Chairman Pearce thanked all the participants for providing information to the Committee regarding some of Idaho's resources.

He then asked the participants, if they could obtain their permits now, how many people could they put to work? **Mr. Steiner**, Premium Exploration, estimated 80-100 over the next 3-4 years, and after completed development, 500-700 employees. **Ms. Stoner**, Agrium, said they will maintain their current employees at 250. **Ms. Lavelle**, Midas Gold, said that in 2012, they had 146 direct and indirect employees. It is anticipated that in five to seven years, they would have 1,000 employees during the construction phase of the mine and 400 employees during the operational phase of the mine. **Mr. Guill**, Goldhill Mining, stated that they currently employ 25 full-time employees and seasonally, an additional 30.

Senator Siddoway asked what could the legislature do to make the next mine project come to fruition and also, how can the legislature better support the mining industry? **Mr. Lyman** replied that he feels all the representatives of mining that are here today are prepared to meet whatever standards the state of Idaho or the federal government were to impose on them. The problem the mining industry encounters is the constant delay of decisions from those agencies. The state seems to be much better with permitting, but the federal government is very slow. **Mr. Lyman** emphasized that if a resolution was made to Congress to expedite these issues, it would make a difference. If there was constant pressure put on the federal government to make timely decisions, he feels it would make a big difference.

ADJOURNED: Due to time constraints, **Chairman Pearce** adjourned the meeting at 3:00 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 13, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: Chairman Pearce

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Vice Chairman Bair** called the meeting to order at 1:30 p.m.

MOTION: **Senator Heider** moved that the minutes of February 4th be approved. **Senator Siddoway** seconded the motion. The motion carried by **unanimous voice vote**.

Vice Chairman Bair introduced Mr. Curt Fransen, Director, Department of Environmental Quality (DEQ), who will speak to the Committee regarding the "Fish Consumption Study".

SPEAKER: **Director Fransen** provided some background involving this study and this report is very similar to the presentation that he made earlier to JFAC. In July 2006, DEQ submitted updated Water Quality Standards to the Environmental Protection Agency (EPA) which included new, more stringent human health based criteria for toxic pollutants allowable in Idaho waters. The Clean Water Act requires EPA to review and approve or disapprove state water quality standards. EPA took no action regarding Idaho's 2006 standards for nearly six years until disapproving them in May 2012.

Though EPA publicly supported Idaho's revised toxics criteria in 2006, EPA's ultimate disapproval asserted that DEQ did not adequately consider information regarding local and regional fish consumption. The amount of fish consumption is important in calculating safe levels of toxic substances that are allowable in water. Human consumption of fish is a primary way we can be exposed to toxics substances that are in the water where such fish live. In other words, toxics substances in water can concentrate in fish which, if consumed by humans, can cause unacceptable health risks. The pollutants they talked about, the standards that were disapproved included water quality criteria for 88 different toxics. This includes substances such as benzene, cyanide, carbon tetrachloride, and polychlorinated biophonyls (PCBs).

Prior to 2006, Idaho's human health criteria was based on a fish consumption rate of 6.5 grams/day which is about 7 ounces of fish per month. The 2006 criteria which EPA disapproved were based on EPA's national recommended "default" rate of 17.5 grams/day which is about 4 ounces of fish per week. Contrary to EPA's assertion, DEQ selected the 17.5 grams/day level after reviewing available information on local and regional fish consumption and concluding that none of that information reflected actual fish consumption in Idaho.

According to the Clean Water Act, new standards must now be developed by EPA or by the state. On August 6, 2012, DEQ notified EPA that DEQ would initiate a negotiated rulemaking to consider fish consumption rates and develop new human health based criteria for toxic pollutants.

Oregon recently based its EPA-approved toxics criteria on a fish consumption rate of 175 grams/day, or 10 times the level used by Idaho's 2006 submittal. One hundred seventy five grams per day is about 6 ounces of fish consumption every day, 365 days a year. In general, this means that Oregon's criteria are about 10 times more stringent than Idaho's 2006 criteria. EPA has indicated that if it is required to establish toxics criteria for Idaho, it will use a fish consumption rate similar to the 175 grams/day used by Oregon. The negotiated rulemaking process recently reviewed available studies and information concerning fish consumption, and reached the general conclusion that no reliable data exists regarding actual fish consumption in Idaho. As a result, to establish appropriate toxics criteria, Idaho is left with one realistic option and that is to conduct a study of Idaho fish consumption.

This issue has serious implications for our citizens, communities and industries. Fish consumption rates and toxics criteria are inversely related. The higher the fish consumption rate, the lower the acceptable level of toxics. The challenge before us is to develop standards that will protect citizens who consume fish from Idaho waters without unnecessarily burdening industrial and municipal sources which treat and discharge wastewater into such waters.

The focus and design of the fish consumption study will utilize input provided through the negotiated rulemaking currently in progress. To help design and conduct the actual study or survey, DEQ will utilize the requested funds to contract with private consultants or possibly academic institutions with specialized expertise. The anticipated survey will seek information from Idahoans about their actual fish consumption, including amounts, frequency, types and sources of fish consumed. Obtaining reliable and representative data regarding fish consumption in Idaho is critical for establishing toxics criteria that will be protective, feasible and defensible.

In closing, **Director Fransen** said DEQ is requesting a one-time funding request in the amount of \$300,000 to provide contract support for this work. (See Attachment 1).

**WRITTEN
TESTIMONY:**

A letter of support was submitted by the Idaho Association of Commerce and Industry for the budget request to conduct an Idaho-specific fish consumption study. (See Attachment 2).

Vice Chairman Bair thanked Director Fransen for his presentation.

Senator Cameron said that he feels this is a very important issue and would encourage the Committee to support it.

Senator Tippetts said that he may have a potential conflict of interest as he works for a company that operates a mine. He also stated that the only way to know the impact is to do the studies and it is a huge issue. **Senator Tippetts** also recommended that the study be done so that the right levels can be found.

Vice Chairman Bair told the Committee that Chairman Pearce had directed him to invite Director Fransen to enlighten them about the "Fish Consumption Study". The Chairman also requested that Committee members provide him with input so that when he goes before JFAC, it will be the Committee's decisions as to what his report contains.

Another issue that Chairman Pearce wanted reviewed was regarding sage grouse and raven depredation. **Senator Siddoway** presented information relating to sage grouse predation and sage grouse nesting areas. The Committee agreed that something needs to be done. A hearing has been scheduled next week and the speakers include representatives from the Office of Species Conservation, the Department of Fish and Game, Idaho Fish and Wildlife Services, and the Department of Agriculture - Wildlife Services. During the discussion, no dollar amount was specified for a study, but it was suggested that funds come from the Department of Agriculture's Depredation account.

The next issue to be discussed is in regards to rangeland fire protection districts. Both Senator Brackett and Senator Cameron have done interim work on this subject and they will speak to the Committee so that guidance can be given to Chairman Pearce.

Senator Brackett said the bill that will be forthcoming is **H 93**. It will help ranchers and landowners to respond to the fires, no matter the cause. Training and equipment will be provided and will be under the supervision of the Bureau of Land Management (BLM). The training is an intensive week-long school, taught by the BLM. These districts would help fill in the gaps in fire suppression. A one-time funding request of \$400,000 for startup costs will be submitted. **Senator Brackett** indicated that liability insurance had also been discussed and was deemed a necessity to protect everyone in the process.

Senator Cameron stated that between Senator Brackett's district and his district, there were some fires that if the landowners could have helped, the fires would have been put out much sooner and there would have been less damage to the habitat. The **Senator** commended the governor and others who have brought this bill forward and are in support of it. He stated that he supports it also.

Senator Brackett said that he has witnessed instances where ranchers and landowners showed up to help fight fires and were discouraged from helping and were threatened with civil action.

There were no negative comments and **Vice Chairman Bair** said he would pass along the information to the Chairman.

The last issue to be discussed regarding funding was the Idaho Rangeland Research Center. The funds requested would be used to include more students at the Center. The recommended amount for appropriation was \$190,000.

Speaking in favor of supporting this action were **Senator Siddoway and Senator Brackett**.

Vice Chairman Bair thanked the audience for their patience in the deviation from the agenda. The reason was because some Committee members needed to be excused early due to a conflict of scheduling. He then invited Ms. Louise Stark, gubernatorial appointee to the Outfitters and Guides Licensing Board, to speak to the Committee.

HEARING:

Ms. Stark said she was honored to appear before the Committee again, as this is a reappointment. She is to serve a term that commenced April 20, 2012 and will expire April 20, 2015. When asked why she wants to serve on the board, her reply was "as a 25 year veteran business owner of White Cloud Outfitters with my husband, I feel I have a solid background in this industry. I would like to maintain reasonable state regulation of the industry while protecting the public who use our services. Since our business operates in both Arizona and Nevada with an assistant guide license in Alaska, I believe I bring a unique perspective to issues facing Idaho. We also operate in all facets of the industry including hunting, trail rides, pack trips, boating and fishing on the Upper Salmon River." She said that she had considerable experience working with the federal government land managing agencies and she feels her relationship with IDFG is one of mutual respect.

Organizations that Ms. Stark is associated with include the Idaho Outfitters and Guides Association, Wild Sheep Foundation, Grand Slam/OVIS, Challis Chamber of Commerce, Challis Arts Council, Ketchum/Sun Valley Chamber of Commerce, Salmon Chapter Idaho Outfitters and Guides Association, Safari Club International, Sawtooth Society and the North America Moose Foundation.

Professional licenses that Ms. Stark has are: licensed (recreation) guide - 15+ years; American Red Cross, certified and CPR/First Aid/AED instructor - 20+ years; and a Bachelor of Arts degree in Physical Education.

Vice Chairman Bair asked Ms. Stark what she has learned while being on the board. **Ms. Stark** replied that it was the complexity of the duties and tasks of the board. When asked what she has contributed to the board, she feels it is the knowledge that she has gained from her contact with outfitters in other states, as well as her interest, background and experience.

Senator Heider inquired as to how important is it to have experience in the outfitting business in order to serve on the board. **Ms. Stark's** answer was it is very important to have the experience - one just can't read the rules and statutes.

Senator Brackett inquired as to what she would do if she deemed there was a conflict of interest. **Ms. Stark** stated that one needs to be able to recognize it and if necessary, not vote and recluse oneself.

Vice Chairman Bair thanked Ms. Stark for talking to the Committee and said they would vote on her confirmation at the next Committee meeting.

The **Vice Chairman** then welcomed Mr. Tom Schultz, Director of the Idaho Department of Lands (IDL).

S 1049

Director Schultz said he was asked to explain **S 1049** which addresses the Oil and Gas Conservation Commission. The present Oil and Gas Conservation Commission supports this proposed statutory change.

The changes will replace the current members of the Commission, who are also the State Land Board, with five gubernatorial appointees. The appointed Commission members would include:

- one member knowledgeable in oil and gas;
- one member knowledgeable in geology;
- one member knowledgeable in water;
- one private land owner with surface and mineral rights in an area with oil and gas activity; and
- one private land owner without mineral rights.

Director Schultz said the exact process for member selection has not been determined, but they will be appointed by the governor to four year terms. The terms would be staggered initially to avoid all five terms expiring at the same time.

IDL researched how oil and gas development is administered in the 44 states that regulate oil and gas drilling and development. Twenty-six states delegate the oversight to a commission and 18 states delegate the oversight to an executive agency. No other state with commission oversight has the State Land Board also functioning as the commission.

The highly technical nature of oil and gas development does not lend itself well to oversight by a commission with little to no knowledge of oil and gas development. With no historic production in Idaho, most Land Board members have little exposure to oil and gas. Governor Otter is the only exception, as he previously worked in the oil and gas industry for a few years outside the state. Given the limited oil and gas knowledge base in Idaho, IDL determined that the Commission should include members who are knowledgeable about oil and gas.

In the **Director's** closing remarks, he said a separation of the Land Board and the Commission is needed to remove, at very least, the appearance of a conflict of interest. **Director Schultz** provided a copy of his remarks (See Attachment 2) and a State Oil and Gas Commission Agencies Summary Table (See Attachment 3).

MOTION: **Vice Chairman Bair** said a motion was in order. **Senator Tippets** moved that **S 1049** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor of the bill.

H 40 **Ms. Tamara Humiston**, representing the Idaho Department of Parks and Recreation (IDPR) presented **H 40**. She said that after IDPR completed a review of Chapter 71, Title 67, Idaho Code relating to the registration statutes, it was determined that Idaho Code 67-7119, Cross-Country Skiing Advisory Committees is not needed. Ms. Humiston said IDPR would like to repeal this code section.

MOTION: **Senator Siddoway** moved that **H 40** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Heider** will be the sponsor of the bill.

Vice Chairman Bair welcomed Ms. Karen Launchbaugh, Director of the Idaho Rangeland Research Center, University of Idaho (UI).

SPEAKER: **Ms. Launchbaugh** provided two handouts (See Attachments 4 and 5). The following information was taken from them.

Researchers, educators and outreach specialists from seven departments, three colleges, and U-Idaho Cooperative Extension have come together to create a new model for interdisciplinary research, education, and outreach to fulfill the land-grant mission. This Center is a group of 25 faculty members with expertise in grazing, rangeland ecology, entomology, soil science, economics, rural sociology, fish and wildlife resources, invasive plants, forage production, animal science, wildland fire, restoration, and the use of spatial technologies to understand rangelands.

The U-Idaho Rangeland Center was established in August 2011 and affirmed in Idaho State Code in Spring 2012. They have partnerships with Backpack Guide; Range Science Information System; Online Rangeland Information with eXtension; Rangeland Science Guides; and Journal of Rangeland Applications. Their local connections include the Intermountain Range Livestock Symposium; Pasture Management Professional Development Workshop; Winter Beef Schools; and the Rangeland Center Annual Symposium.

The next generation of Land Managers:

- Western National Rangeland Assessment event gives FFA high school students west of the Rocky Mountains the opportunity to learn about rangeland assessment and show expertise in a contest format.
- Collegiate Rangeland Assessment Teams are created every summer by the Rangeland Center to conduct field work on a variety of topics such as ecological site analysis and sage-grouse habitat assessment.
- Rangeland Education websites provide information on rangeland and environmental science for high school teachers. The Rangeland Center also works with six high schools and hundreds of students in Idaho to offer a dual-credit course in Rangeland Principles.
- Recruiting students to rangeland degrees and careers through a new world-class website.
- Graduate student involvement includes an interdisciplinary team of four Ph.D. students who will direct several future scenario-building exercises with rangeland stakeholder to identify opportunities for adaptive management choices among land management alternatives.

Ms. Launchbaugh said there are three hot topics they are studying and they are fire, grazing and sage-grouse. There are land managers and ranchers in the Boise and Mountain Home area who are trying to stop the fire cycle with local landowner involvement and grazing to reduce fuel loads. The Center will provide expert witnesses to address the role of grazing in sagebrush ecosystems and sage-grouse habitat in federal court. Also, a collaborative research plan is being proposed for a 10 year research effort to examine the effects of spring cattle grazing on sagebrush ecosystems, sage-grouse habitat and vital rates, and wildland fuels. Partners include UI, IDFG, BLM, US Geological Survey, ranchers, land managers and conservation organizations.

That concluded Ms. Launchbaugh's report.

Vice Chairman Bair thanked Ms. Launchbaugh for her presentation to the Committee. He then said that Senator Siddoway would like to make an acknowledgement.

PAGE

APPRECIATION:

Senator Siddoway asked the Committee's Page, Michael Swanson, to stand. The **Senator** said that he had sponsored Michael, who is from Rigby, and was proud of his willingness to be a Page for the Senate. (He had sisters before him that were Pages.) **Senator Siddoway** presented Michael with a gift certificate to Hastings, as he is an avid reader and a letter of acknowledgement signed by all the Committee members. **Michael** thanked the Committee and said his future plans are to go on a mission for his church, then attend college.

ADJOURNED:

Vice Chairman Bair adjourned the meeting at 2:55 p.m.

Senator Bair
Vice Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 18, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m.

PAGE INTRODUCTION: He introduced Kyra Perron, the Committee's Page for the second half of the session. She is from Hagerman. When asked why she was interested in becoming a Page, **Kyra** responded by saying it was the involvement in Girls State that triggered her interest.

MOTION: **Chairman Pearce** said a motion was in order regarding the gubernatorial appointment of Louise Stark to the Outfitters and Guides Licensing Board. **Senator Tippetts** moved to send the gubernatorial appointment of Louise Stark to the Outfitters and Guides Licensing Board to the floor with recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Stennett** will be the sponsor.

GUBERNATORIAL APPOINTMENT: **Chairman Pearce** said the next order of business would be to hear from Dustin Miller who has been appointed Administrator to the Office of Species Conservation (OSC). He was appointed July 18, 2012 and will serve at the pleasure of Governor Otter.

Mr. Miller said he is originally from North Dakota where his family had deep roots in agriculture. He graduated from the University of Idaho where he received a Bachelor of Science degree in Environmental Science, and after college, he began working for the Idaho Farm Bureau Federation. Most of his time was focused on natural resource issues and public land issues that impacted Idaho Farm Bureau ranching and farming members.

After his time with the Idaho Farm Bureau, Mr. Miller started employment with U.S. Senator Larry Craig as a state natural resources field coordinator, based in Boise. In 2008, he was hired on by OSC as a project manager and also served in an outreach liaison capacity focusing most of his efforts on wildlife issues. In March 2012, he became interim administrator for OSC.

Since his appointment, **Mr. Miller** said they have had two recent successes at OSC. One was regarding slickspot peppergrass. In 2009, Governor Otter filed suit against the U.S. Fish and Wildlife Service (USFWS) over the listing of the plant. Last fall the court remanded and vacated the listing rule for slickspot peppergrass and now the species is no longer receiving the federal protection under the Endangered Species Act (ESA) and is being managed by the state of Idaho. OSC provided a great deal of legal work on this litigation.

Mr. Miller said that OSC was recently successful in helping to convince the USFWS to scale back the amount of acres proposed as critical habitat for caribou in the Idaho Panhandle. The current designation is more scientifically based, more workable for local communities and small businesses and is more consistent with USFWS's own policies.

Greater sage-grouse is their most significant wildlife priority right now. Governor Otter set up a sage-grouse task force almost a year ago to come up with recommendations. Those recommendations were rolled into a federal alternative for incorporation into the Bureau of Land Management (BLM) and the U.S. Forest Service's (USFS) land-use planning efforts.

Mr. Miller is an avid hunter, fisherman and outdoorsman. He is a member of the Idaho Cattle Association - Industry Supporter, a volunteer for Leukemia and Lymphoma Society's Team in Training and a drummer/musician. In the news release about Mr. Miller, Governor Otter said, "The Office of Species Conservation is our first line of defense for responsibly protecting and restoring plant and wildlife populations, and Dustin understands the extraordinary and potentially devastating impacts that federal listings under the Endangered Species Act can bring." **Mr. Miller's** response was that it's a big responsibility, but one that he is prepared and eager to embrace for the people of Idaho.

At the close of his talk, **Mr. Miller** introduced his wife, other family members and office staff. **Chairman Pearce** thanked Mr. Miller and said the Committee would consider his appointment at the next Committee meeting.

The **Chairman** then called on Senator Guthrie to present **S 1062**.

S 1062

Senator Guthrie explained that the purpose of this legislation is to amend Sections 18-7008 and 36-1603, Idaho Code, and to give property owners more options that their property is not to be trespassed on. Posts are to be painted with high visibility shades of orange paint with a minimum of 100 square inches. If metal posts are used, the entire post must be painted with a high visibility shade of orange. He stated that he had checked with law enforcement, and also IDFG, and neither had any problems with the legislation.

Senator Siddoway had a concern regarding the painting of the entire metal post. He suggested that a designated length be painted on the post, rather than the entire post. **Senator Guthrie** said he was agreeable to have the bill sent to the amending order.

TESTIMONY:

Ms. Sharon Kiefer, IDFG, said the use of high visibility orange paint benefits both the landowner and the outdoor recreationist to clearly delineate posted land and that the Commission supports this bill. (See Attachment 1).

MOTION:

Senator Siddoway moved that **S 1062** be referred to the 14th Order for amendment. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Guthrie** will be the sponsor. **Chairman Pearce** requested that Senators Guthrie and Siddoway work together on the amendment.

S 1061

Senator Brackett presented **S 1061**. He said it is in regards to threatened and endangered species and is to provide that the state asserts primacy over the management of its fish and wildlife. Any introduction or reintroduction of any federally listed species without state consultation and approval is against the policy of the state of Idaho. **Senator Brackett** said this legislation compliments existing Idaho Code 67-6302 and requires involvement with OSC.

TESTIMONY:

Ms. Kiefer testified that the IDFG Commissioners are in support of this bill. It codifies in Idaho Code a policy position of the state of Idaho that has been expressed by the state of Idaho in various forums and is currently expressed in the Comprehensive State Water Plan (**H 38**). (See Attachment 2).

TESTIMONY: **Mr. Andy Brunelle**, U.S. Forest Service, said he is attending today's hearing to better understand **S 1061** and its intent of how it will affect the Forest Service throughout Idaho. He stated that they are replacing culverts and addressing fish passage problems. **Mr. Brunelle** said the Forest Service is not actively introducing species, but they are reconnecting habitat. He feels the different agencies can work together if a situation arises.

TESTIMONY: **Mr. Norm Semanko**, Executive Director of the Idaho Water Users Association (IWUA), said that IWUA is in support of **S 1061**. They feel it is an important piece of legislation.

TESTIMONY: **Mr. Dustin Miller**, OSC Administrator, stated that the governor and the OSC office are in support of **S 1061**. The language in the bill is complementary to the existing statutes and also allows for another check.

MOTION: **Senator Heider** moved that **S 1061** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor of this bill.

H 48 **Mr. Tom Neace**, Manager of the Ground Water Protection Program, Idaho Department of Water Resources (IDWR), presented **H 48**. The purpose of this legislation is to provide bonding authority to decommission Class II injection wells in the event the owner or operator of any such well is financially unable to do so. Class II injection wells are deep injection wells used primarily to inject waste fluids associated with the production of conventional oil or natural gas.

A bond would be established of \$10,000, plus \$1 per foot for any Class II injection well, associated with the oil and gas industry. This is consistent with the bond already in place by the Oil and Gas Commission for any oil and gas production wells. They did go through the negotiated rulemaking process and everyone supported this amount.

Senator Tippetts felt the language on page 2 regarding the director's discretion was very broad and asked for an explanation. **Mr. Neace** replied that it was written in this way in case there was a company that had some financial problems, or other issues of noncompliance in other states, and this gives the director sufficient reason to require a larger bond.

Senator Stennett inquired as to how the dollar number was reached. **Mr. Neace** said the reason the dollar number was chosen was because during the negotiated rulemaking process, the oil and gas industry brought up a variety of incidents where they had to close wells that were not producers. In order to close those wells, it was under \$10,000. This bond is the same as what the Oil and Gas Commission had come up with during their time of negotiated rulemaking. The Idaho Conservation League was at the table and after discussion, it was agreed by all that \$10,000 was a reasonable number to go with.

MOTION: **Senator Siddoway** moved that **H 48** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor of this bill.

H 49 **Mr. Tom Neace** presented **H 49** and said that this bill does two things. It provides a definition for Class II injection wells associated with the oil and gas industry and it also establishes a fee of \$2,500 per well for any Class II injection well that is applied for in the state of Idaho. This is a one-time fee for the life of the well and it covers review and evaluation permits, over-site of the well construction, periodic inspections and review of mechanical integrity tests, at least every five years, as well as any kind of problems or complaints. This was discussed at the negotiated rulemaking process.

Senator Stennett inquired as to who would be doing the checking, the oil and gas industry or IDWR? **Mr. Neace** said on any Class II well, it would be IDWR.

TESTIMONY: **Mr. Norm Semanko**, Executive Director, IWUA, stated that their legislative committee reviewed this bill in January and they support it. Their main reason for supporting it is because there has not been Class II injection wells and IWUA relies on the programs of IDWR. There will be a cost to administer the program and **Mr. Semanko** stated that the user fees will support the program.

MOTION: **Vice Chairman Bair** moved that **H 49** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor of this bill.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:55 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 20, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m. and said the first order of business is the consideration of the appointment of Dustin Miller as Administrator of the Office of Species Conservation.

MOTION: **Senator Heider** moved to send the gubernatorial appointment of Dustin Miller to the Office of Species Conservation to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor.

Chairman Pearce announced that the presentation today will consist of four speakers with regards to sage-grouse, predation, migratory birds, and predator control. First to speak will be Dustin Miller

SPEAKER: **Mr. Miller** said he appreciated the votes and now it is "back to work." He stated that he would address the "Governor's Sage-Grouse Alternative" and also give a review of the past year's planning efforts.

Mr. Miller stated that it was a long process to develop the Governor's Sage-Grouse Alternative. The Task Force that was appointed was a diverse group and the product they came up with was rolled into an Alternative for the Bureau of Land Management (BLM) and the U.S. Forest Service's (USFS) planning processes. It adequately provides for the needs of the birds, addresses the threats, while maintains predictable levels of land use activities.

Greater sage-grouse has a long history of petitions, federal actions, and litigation. In March 2010, U.S. Fish and Wildlife Service (USFWS) said the species was warranted, but precluded, for listing across 11 states in the west. Because there were higher priorities, that put the sage-grouse on the candidate species list (a waiting list). By law, USFWS has a year to address the threats to a candidate species and then make a decision whether to move forward or not with rulemaking to list the species as threatened or endangered, or down-list it and it would come off the candidate list.

Mr. Miller said that in the settlement agreement, USFWS was given until September 30, 2015 to make that final decision. According to USFWS 2010 findings, the primary threats were identified as habitat fragmentation due to wildfire; infrastructure; invasive species; energy development; and inadequate regulatory mechanisms. There were secondary threats of which most were localized in nature that includes improper grazing practices. It was also determined that multiple land use plans across BLM and USFS lands were inadequate - not enough enforceable actions in place to provide for the needs and to protect the species.

The BLM and USFS are currently going through a process to update these land use plans. There are 88 issues and they intend to have them updated by September 2014.

Mr. Miller said that Interior Secretary Ken Salazar, in 2011, invited states to develop plans for conservation of the species on federal lands. Governor Otter convened the Sage-grouse Task Force, of which Senator Brackett is a member, and they provided the governor with recommendations on policies and actions needed to preclude listing of the species. Those recommendations were rolled into an Idaho-specific Alternative and was incorporated into BLM and USFS land use planning process.

In talking about the process, **Mr. Miller** said it was based on the Idaho roadless rule. That rule has been upheld by the Federal District Court and affirmed by the Ninth Circuit Court of Appeals. The Governor's Sage-Grouse Alternative, which includes 15 million acres of habitat in Idaho, has been divided into three habitat zones and there is a population component as well. The primary threats addressed in the Alternative were wildfire, invasive species and infrastructure. In Idaho, lost habitat has largely been due to wildfire. The Task Force also discussed secondary threats. One in particular was improper livestock grazing. The Task Force was asked by the industry to address grazing to ensure that they protect that land use activity while addressing the needs of the birds. The BLM and USFS are addressing grazing through their land use planning process and various other alternatives.

Predation was also addressed by the Task Force and it can have a significant impact on sage-grouse in some areas. It has been determined as a secondary threat and is more localized in nature. Range-wide, predation has not risen to the level of being a primary threat. It has been addressed in Idaho, and looking across the 11 western states, it is not a primary threat and should not trigger a listing.

Mr. Miller said another important thing to know is that they incorporated in the Governor's Alternative, by reference, the 2006 Sage-grouse Management Plan. The 2006 Plan served as the foundation for the development of the Governor's Sage-grouse Alternative. He said the ultimate goal is to preclude the need to list and to keep the species under state management - where it belongs. Currently, they are working to get the approval of USFWS for the Governor's Sage-Grouse Alternative so that it may be implemented. OSC and IDFG are cooperators in BLM and USFS's land use planning process. The Governor's Alternative is one of six and **Mr. Miller** feels it is the best Alternative that adequately addresses the needs of the species while protecting land use activities in Idaho. (See Attachment 1).

SPEAKER:

Mr. Don Kemner, Natural Resource Program Coordinator, IDFG, provided a Power Point presentation on "Predation and Sage-grouse." Sage-grouse are a prey species, whether it is an egg, chick, or an adult bird. There are a variety of species that are predators. They include badgers, red foxes, coyotes, bobcats, ravens, black-billed magpies and golden eagles. However, these predators do not focus specifically on sage-grouse as their primary food source. **Mr. Kemner** said that when he refers to predator species, he is referring to them in the biological sense, not in the legal sense as to what the state of Idaho has regarding the legal list of predators. That is a different list.

Mr. Kemner stated that there have been recent studies in other states regarding predation which is considered reliable information. In Utah's research, a study was done on red fox control and it may increase the population of sage-grouse. Coyote control was conducted in Wyoming and their conclusion was that coyotes had no effect on nest success. There is an ongoing study, for the last three years, in Virginia Mountains, Nevada regarding sage-grouse population. Now, in 2013, they will conduct (for the next three years) raven control in that same area to see if any of the trends change.

There is also indirect information on sage-grouse, such as nest success. Across the 11 western states, nest success ranges from 15 to 86 percent. Young chicks, up to three weeks of age, ranges from 15 to 30 percent. The annual adult survival rate ranges from 40 to 80 percent. Habitat quality and the amount and condition of the landscape may also play an important part of sage-grouse success.

Ravens have increased 300 percent across the U.S. and up to 1500 percent in some of the western portions of the U.S. It is driven by human development in areas where ravens exist and the developments provide nesting and perching areas, such as power lines and other tall structures. Water sources which didn't exist previously, such as water tanks, troughs, and ponds are an attraction for the ravens. Food that can be found in landfills, dumps, road kills, and expansion of agriculture all add to the increase in the population of the ravens.

In Nevada, a study was conducted relating to the sage-grouse, and it was found that increased nest failure was associated with increased raven density. It was suggested that resources that inadvertently attract raven population be reduced. It was also recommended that land management look at protecting large robust sagebrush communities.

Mr. Kemner next addressed predation as a threat to sage-grouse. The Conservation Plan for Greater Sage-grouse in Idaho, which was developed in 2006, addressed and ranked 19 threats, with predation ranking 12th. Wildfire, infrastructure, and annual grasslands were identified as the top three threats to sage-grouse. The state plan wrote a chapter for each threat identifying conservation actions to take to address those threats. In the predation chapter, it provides a step-by-step method for assessing available sage-grouse population data and predation in a local area.

The USFWS, in a 2010 listing decision, five factors were identified, with two of those factors as being warrant for listing. It was the lack of regulatory mechanisms and the loss of sage-grouse habitat. In the western part of the range - Nevada, Oregon and Idaho - the primary drivers of that loss of habitat fragmentation were wildfires, invasive plant species, and large infrastructure. It is the same three threats that the Idaho experts had identified.

Mr. Kemner said they are working with OSC and are focusing their resources on addressing those primary threats. The Governor's Alternative does not address predation, but does refer to the state plan. The state plan does address predation and addresses it on a local scale, with the 2006 plan step-by-step process evaluation. Recent activity has been in the Curlew Sage-grouse Planning Area. In the last three years, a study has been done by Idaho State University (ISU) regarding ravens densities. In the Upper Snake Sage-grouse Planning area, the 2006 plan step-by-step process has been used to evaluate local data and the plan is to reduce resources supporting raven populations. It has been recommended killing ravens in the short-term to benefit sage-grouse until long-term benefits can be enacted. What needs to be done is to go through the step-by-step process of the 2006 plan to make sure the information available for that area justifies the recommendation. (See Attachments 2, 3 and 4).

SPEAKER:

Mr. Brian Kelly, State Supervisor for USFWS, reported on "Permits to Take Migratory Birds". Ravens are migratory birds under the Migratory Bird Treaty Act (MBTA). There is an interest in moving forward with raven control and the state would have to obtain a permit to do that. It would be under the auspice of a research program. **Mr. Kelly** said the permitting process goes through their Portland Office and he has additional information regarding that. He offered to help facilitate the process if anyone is interested. It takes up to 60 days to get a permit, along with a modest fee. (See Attachments 5 and 6).

Senator Siddoway inquired whether an agency, an individual or grazing association could receive a permit if they had a plan. **Mr. Kelly** replied that he was not sure, but applications have been made in different states in different ways. He offered to follow-up on the question. **Senator Siddoway** asked about a pilot project and the cost of it regarding pushing the population of a certain predator down in a certain unit or region. Instead of hiring professionals to do the job, he asked if IDFG could obtain licensing and have concerned citizens or sportsmen be involved. **Mr. Kelly** responded that he didn't want to mislead the Senator, but he thought their permit process allowed a sub-permittee. **Senator Siddoway** then asked if the Idaho plan was consistent with USFWS's objectives and does it meet the depredation issues? **Mr. Kelly** said it does and they realize there is a local concern.

Senator Brackett inquired if the same law was applicable to both the crow and the raven. The answer was that both birds are protected under the Migratory Bird Treaty Act, but they are managed differently. One of the differences is that there is a hunting season for crows, but not for ravens. The **Senator** said he understood there were two approaches to take - one being research and the other was depredation - and he requested an explanation. **Mr. Kelly** said research was better because of the uncertainty and the differences of the test.

SPEAKER:

Mr. Todd Grimm, was the next speaker. He is the State Director for the U.S. Department of Agriculture (USDA) Wildlife Services and will address the subject of predator control. **Mr. Grimm** said they have 22 full-time employees and they handle a variety of wildlife damage management problems. One of the things that they have to control starlings is BRC 1339 at feedlots and dairies. It is also used to control ravens and about 200 are killed each year in Idaho just for livestock protection. BRC 1339 is a safe poison as it is metabolized in the bird before they die and anything that eats on the carcasses of the dead birds is not exposed to any secondary toxicity. The way the poison works is that it shuts down the birds' kidneys and they die of uremic poisoning. The poison can be applied to bread, eggs, grain, dog food, meat and all kinds of things. Last week, approximately 24,000 starlings were killed in the state. When killing ravens, the poison is put on boiled eggs or meat balls.

Mr. Grimm said that when he was asked to speak here, he wanted to know what other states and areas were doing so he could report that. Montana is not doing anything and Wyoming is killing 1,400 ravens a year. Nevada kills about 2,000 ravens a year to specifically protect sage-grouse. About 10,000 hard boiled eggs are placed around sage-grouse nests and they figure about 2,000 birds are killed through this effort. Seventy five to one hundred badgers are also taken each year, just to protect sage-grouse. Badgers are not federally protected, so no special permit is needed. Utah kills 2,200 to 3,300 ravens a year just to protect sage-grouse and they have done this since about 2000. They treat from February through July and are funded by Utah Wildlife Resources and the Utah Agricultural Department. Their cost is approximately \$67,000 a year. One of the things they haven't been able to address is the depredation of golden eagles. Oregon is not doing anything for sage-grouse at this time.

Mr. Grimm said that Wildlife Services is not regulatory - they are a service organization and if someone needs help, they will help them and make sure it is legal.

Senator Stennett inquired as to how starlings and ravens impact livestock predation. **Mr. Grimm** said that starlings feed on livestock feed at the livestock facilities. Ravens will attack and kill newborn lambs and calves. **Senator Stennett** asked about the poison used to control the bird population and if it impacted other species. **Mr. Grimm** responded by saying that when they set out the meat base and egg base, they have to supervise them to make sure that non-target birds are not going in, so there has been no risk.

Senator Siddoway asked Mr. Grimm how he would perceive a test area for predator control, as well as the number of people involved, what type of program, time frame required and the approximate cost. **Mr. Grimm** said that before starting such a project, someone from their research branch should establish a base line for nest success and what they think predation numbers are. Once that has been established, predator control could be done, including ravens, badgers, foxes or whatever is in the area, for a prescribed time - most likely March through June. Then they would see if any nest success and the growth of small birds to large birds had taken place. As far as the number of people involved, it would depend on the size of the geographical area to be covered.

ADJOURNED: **Chairman Pearce** thanked the gentlemen that participated in the presentation, then adjourned the meeting at 2:40 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 25, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:33 p.m. He welcomed Ms. Teri Murrison, Administrator of the Idaho Soil and Water Conservation Commission, who will present the Commission's annual report. (See Attachment 1).

SPEAKER: **Ms. Murrison** introduced several people. They included: Jan Webster, with the Conservation Commission; Bret Rumbeck, Executive Director of the Idaho Association of Soil Conservation Districts; Conservation Commissioners; and a number of Conservation partners.

Ms. Murrison said that "soil and water conservation" is a little misleading. They are about a lot more than just soil and water, although those tend to be their priorities. They are a leading force in Idaho for the conservation of soil, water, air, plant and animal resources. The commission dates back to 1939 when it was established in response to the Dust Bowl era of the 1930's. During the 1930's, there were dust and erosion issues caused by what were, at that time, common agricultural and land management practices. In 1934, Idaho had:

- Over 27 million acres - 51 percent of the state - affected by sheet erosion;
- More than 27 million acres lost over one-fourth to three-fourths of their top soil;
- Severe gullyng affected almost 13 million acres; and
- Wind erosion affected nearly eight million acres.

In 1935, the U.S. Soil Conservation Service, now the Natural Resource Conservation Service (NRCS), began working with farmers, states, and local groups to address the problem. Idaho joined the effort, establishing the Commission in 1939, and a few years later, soil conservation districts. That was the beginning of the partnership that persists today. The Commission and NRCS supply technical expertise, funding, and other resources to empower conservation districts to be the "boots on the ground" of voluntary conservation, undertaking locally led projects with private landowners.

Ms. Murrison stated that in regards to conservation, the Commission means using the natural resources of the state to benefit the people, but simultaneously maintaining those resources in the same condition or better. Their focus is on voluntary, cooperative efforts with local people - often ranchers and farmers.

Ms. Murrison said that their office has had to do more with less, but they are proud of what their staff of 16 full-time members, two part-time and some temporary employees have done. The Commission focuses on three core functions in their strategic plan. They are: 1) Technical and other support services; 2) Conservation programs; and 3) Administration.

The technical support services assist Idaho's fifty conservation districts. The assistance includes conservation planning, engineering, services, project implementation and construction inspections. There are also other services that strengthen districts and help build their capacity. Trustee and benefit funds, as directed by statute and rule, are distributed and allow districts to take on administrative and project responsibilities. In Fiscal Year 2012, the Commission helped 35 districts with projects, initiated 47 new projects, worked on 45 ongoing projects, and worked with their conservation partners to serve 271 landowners.

With regards to the conservation programs, their flagship incentive program is the Resource Conservation and Rangeland Development Program. It provides low interest loans to purchase equipment and install projects that provide conservation benefits. In exchange for low interest loans, landowners operate under a conservation plan - improving practices and/or replacing equipment to produce conservation benefits such as water savings, erosion reduction, etc. They currently have 131 active loans totaling about \$5 million dollars. These loans enabled conservation on more than 40,000 acres last year. Under the general conservation programs, the Commission managed the Conservation Reserve Enhancement Program. This means leading state efforts to conserve water use on marginal farm ground in the Eastern Snake River Plain Aquifer. Participating landowners receive modest payments in exchange for not farming such lands. Last year, 158 Conservation Reserve Enhancement Program (CREP) contracts were signed in the Eastern Snake River Plain region, with more than 17,000 acres enrolled.

Ms. Murrison explained the Cooperative Conservation Partnership Initiative grant from the Natural Resources Conservation Service. She said their work to address pollutants in Nitrate Priority Areas resulted in 40,000 acres treated with Best Management Practices. That meant more than a 150,000 pound reduction in nitrates, almost 29,000 pounds in phosphorus reduction, and roughly 144,000 pounds of sediment reduction.

The Commission is the designated lead agency for the agricultural and grazing components of the Total Maximum Daily Load (TMDL) implementation plan for water quality impaired surface waters in the state. Since 1998, they have completed 85 plans. In Fiscal Year 2012, only three TMDL Implementation Plans were completed. In 2009, eleven were completed. **Ms. Murrison** said they have reevaluated both their workload and backlog and have streamlined the planning process, with it taking less time now to complete the plan. They are currently working on ten backlogged plans, eight of them long overdue to the Department of Environmental Quality (DEQ). The Commission has been advised that DEQ may not release any new TMDLs this year; however, DEQ plans to evaluate adding to the existing plans, as many as 13 this year (which could generate seven "new" plans). **Ms. Murrison** stated that it will be a significant challenge for the Commission next year.

Regarding communication and outreach, the legislature previously let them know that they needed to improve their relationships with the districts. **Ms. Murrison** said that they have taken proactive steps and can confidently say that they have improved. In the last several years, they have focused on being transparent and inclusive, as well as increasing their district visits.

Idaho's urban growth is creating land use conflicts and means the Commission continues to lose agricultural land and open space. As their needs grow, money and resources for voluntary conservation continues to shrink. Water quality continues to be a major concern and is pushing other funding priorities aside. They also are faced with increased federal regulatory and endangered species issues, which forces them to dedicate time and staff at the expense of other needs.

Ms. Murrison said she wanted to assure the committee that they will continue to pursue conservation the Idaho way. That means non-regulatory, voluntary, local cooperative efforts. It means using the state's great natural resources to the benefit of our farmers, ranchers, and the public. And also to the benefit of our economy and our state, promoting the use of the resources in a way that protects and improves them for the benefit of future generations.

SPEAKER:

Ms. Murrison then asked Mr. Rumbeck to report on the Soil Conservation Districts. **Mr. Rumbeck** stated that their organization continually improves their outreach, both internally and externally. They started a monthly newsletter that reaches 400-500 people. He said they are continuing the relationship to work with the Soil and Water Conservation Commission and NRCS. His closing comment was "the work that the districts do each day keeps the private landowners in the drivers seat when it comes to their land."

Senator Siddoway inquired as to the relationship between the Commission and the Districts, if there are concerns, and how the money is being spent. **Ms. Murrison** said the relationship was not always good, but as they have worked together and have become more transparent, it has worked into a good relationship. **Mr. Rumbeck** added that because they were both new to their organizations, they didn't have "baggage", but instead, when in meetings, they could ask how to improve situations and find out what needed fixing. He said that the relationship is very strong. With regards to the money, districts get \$8,500 to start each fiscal year and the match fund is divided by a formula.

Senator Brackett inquired about the backlog of TMDL programs and asked what the consequences are if not completed on time. **Ms. Murrison** replied that they brought in a contractor who streamlined the process and now they have a strategy with existing resources to retire the backlog and stay on top of the workload. With regard to the ramifications, she said they have spoken to the Environmental Protection Agency (EPA) and also with DEQ. They have advised the Commission that they are satisfied that they are making a good faith effort and on track. If for any reason the state of Idaho fails to meet a legally mandated settlement, they would be subject to litigation.

Chairman Pearce asked about the loans from DEQ. **Ms. Murrison** said they have one state revolving fund loan that they borrowed from DEQ to loan out for a large project. It will pay out in 20 years. They charge their client four percent interest and the Commission pays two percent interest to DEQ.

Chairman Pearce thanked Ms. Murrison and Mr. Rumbeck for their presentation. He said next on the agenda is **H 50** with Director Gary Spackman from the Idaho Department of Water Resources (IDWR) explaining it.

H 50

Director Spackman said **H 50** is a bill that arose out of a court case that was heard by the Idaho Supreme Court regarding the licensing of Idaho Power's hydroelectric facilities for Brownlee Dam and Reservoir. As part of that proceeding, the ability of IDWR to establish a term of years for hydropower water rights was refused by the court. As a result of that court case, IDWR began negotiations with Idaho Power and also with owners of hydropower facilities, in particular, the Boise Project Board of Control. **Director Spackman** said they were trying to figure out how to address the outcome of the court case and one of IDWR's Deputy Attorney Generals, Garrick Baxter, was directly involved in the negotiations. The **Director** then deferred his time to him.

TESTIMONY: **Mr. Garrick Baxter** said that Section 42-203B(6), Idaho Code authorizes the director of IDWR to limit a hydropower water right to a specific term. The director does this by adding on what is called a term condition on the water right. It does not set a fixed termination date. The concern with a fixed termination date is that it sends the water right holder back to square one. The water right terminates and the water user has to come in, file for a new application for a permit, pay the fees associated with a new application permit, go through the whole advertising, permitting process, and submit proof of beneficial use, then the water right gets licensed again in the future. It not only puts a burden on the user, but also puts a burden on the staff of IDWR. From IDWR's standpoint, a fixed termination date does not make sense because it makes IDWR re-license a water right that has already been licensed.

If the goal is to maintain state control over the water right, it could be accomplished through a better mechanism. With **H 50**, IDWR is adding a term condition to allow for the automatic renewal of the water right license unless the director deems it necessary to revisit the water right. This allows the water right to continue on and still preserves the state's authority over the hydropower water rights. **Mr. Baxter** stated that he wanted to make it clear that this legislation only affects hydropower water rights and does not affect any other types of water rights. This legislation has the support of the Idaho Water Users Association.

TESTIMONY: **Mr. James Tucker**, who is with the Idaho Power Company, said he just wanted to verify what Director Spackman said and that Idaho Power supports the legislation.

TESTIMONY: **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, also testified in support of this legislation.

MOTION: **Vice Chairman Bair** moved that **H 50** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor.

H 47 Presenting **H 47** was **Mr. Tim Luke**, IDWR. The purpose of this legislation is to provide authority to the director of IDWR to appoint a water district watermaster if a duly elected or appointed watermaster resigns or is otherwise unable to perform the duties of the position during the elected or appointed term of service. This legislation amends Section 42-605(10), Idaho Code. Two watermasters have died and last year one resigned after a month into the season. They have the support of the Idaho Water Users Association and have conversed with a number of water districts in the state.

MOTION: **Senator Siddoway** moved that **H 47** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:30 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 27, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m. He said there were several set of minutes to be approved.

MOTION: **Senator Tippetts** moved that the minutes of February 6 be approved. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Lacey** moved that the minutes of February 11 be approved. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**

MOTION: **Senator Brackett** moved that the minutes of February 13 be approved. **Senator Tippetts** seconded the motion. The motion carried by **unanimous voice vote**

MOTION: **Vice Chairman Bair** moved that the minutes of February 18 be approved. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**

Chairman Pearce welcomed Director Nancy Merrill and the Board members of the Idaho Department of Parks and Recreation (IDPR; Department).

SPEAKER: **Director Merrill** introduced the Board members. They are Tom Crimmins, Board Chairman; Randy Doman; Susan Buxton; Charles Correll and Jean McDevitt. Board member Robert Hansen was unable to attend. She then presented an "Agency Overview" of the Department. (See Attachment 1).

Director Merrill said the mission of IDPR is "to improve the quality of life in Idaho through outdoor recreation and resource stewardship." There are 30 state parks across Idaho that occupy 60,263 acres. Last year, 5.2 million visitors came through the parks and of those, 1.65 million were from out-of-state.

Of the general fund appropriations, IDPR received \$2,702. **Director Merrill** said their operating philosophy, in recent years, they have adopted more business-minded practices and strategies in an effort to become more self-sustaining. Of the 2012 funding mix, four percent came from the general fund and 96 percent was from federal or user generated fund support.

Director Merrill shared recent successes with the Committee. They included:

- All 30 state parks remained open;
- Volunteers contributed over 86,000 annual hours;
- Customer satisfaction increased from 89 percent to 94 percent;
- Overnight occupancy increased by 2.69 percent;
- Revenues from all sources are up by 7.45 percent;
- Finished 30 marketing and business plans, one per park;
- Established better communication with constituents and community leaders;
- Continue to set the standard for interagency cooperation;
- Working to eliminate duplication of state agency services; and
- Passport Program launched.

The **Director** then elaborated on the Passport Program. The cost has been reduced from \$40 to \$10 per vehicle, per year. A soft launch was started October 1, 2012 and ended December 31, 2012 with 18,438 passports sold. Revenue brought in was a little over \$230,000. The official marketing plan began January 1, 2013 with television and radio commercials. There are ten unique grant programs, managed by a five citizen advisory committee. They have spent \$7 million in projects, that are funded each year, for recreational trail projects (RTP), live water conservation fund (LWCF), water improvement fund (WIF), and the gas tax. This money goes to cities, counties, and state and federal agencies.

With regards to recreation, 2,500 students have been instructed in boat, ATV, motorbike and snowmobile avalanche safety classes. Two thousand miles of trail have been cleared and maintained for public use and 5,600 miles of snowmobile trails were groomed statewide. Registration for these machines amounted to 51 percent for ATVs and motorbikes, 32 percent for boats, and 17 percent for snowmobiles. This generated \$3.9 million for recreation programs and snow groomers.

Registration of these machines was formerly handled by IDPR. Now, registration takes place with the Idaho Department of Transportation (IDT). Due to the new software, IDT will not be able to share information with IDPR, which will cause IDPR to be out of compliance with state statute. **Director Merrill** stated that when she presented "Agency Overview" to the House Resources and Conservation Committee, questions were asked that resulted in obtaining the Attorney General's opinion. (See Attachment 2). **H 116** was held by the House Resources and Conservation Committee. Their concerns included the administration fee of 15 percent to be retained by IDT and the loss of the vendor network.

At the previous Board meeting, the Board looked at many different ways to try to solve this issue, which is very costly, and it was determined to move the registrations from IDPR to IDT. The cost would be \$28,500 for implementation and IDPR would continue to sell out-of-state snowmobile stickers through a vendor network.

Director Merrill reported that the Board held public forums; gave a presentation to the Idaho Recreation Council and to the Idaho Snowmobile Congress; met with citizens at "Capitol for a Day", the Idaho Advisory Committees, County Commissioners, and County Assessors. Letters were sent and meetings were held with vendors, as well as meetings with legislators.

The benefits for Idahoans and recreationists would be no duplication of state resources and IDPR can focus on management of recreation programs, grants, education, and public outreach. IDT's business is registration and there would be very little change for current customers.

At yesterday's Board meeting, they looked at different options. Option 1 was to revisit **H 116**. Option 2 was to put together a communication system between IDT and IDPR, which would be costly. Money would have to be taken from the recreation programs to help fund Option 2. This would also mean less money for the counties. Beginning July 1, without any change, it will not be practical to comply with state statute. That concluded **Director Merrill's** presentation.

Chairman Pearce complimented Director Merrill for her positive attitude, in spite of the financial challenges she faces. A round of applause was given for the Director.

H 93

Director Tom Schultz, Idaho Department of Lands (IDL) presented **H 93**. He said this bill relates to the establishment of Rangeland Fire Protection Associations which provide ranchers with an opportunity to actively participate with other fire protection organizations in the suppression of rangeland fires.

The proposed legislation will add Section 38-104B to define a "nonprofit rangeland fire protection association" and clarify the process for establishment and operation of such an organization. **Director Schultz** said the Governor supports this proposed statutory change.

Currently the statute provides authority for the Director to enter into agreements with both Timber Protective Associations and Rangeland Fire Protection Associations, but the process for establishment and operation is only provided in detail for Timber Protective Associations. Rangeland Fire Protection Associations are distinctly different organizations, and this proposed legislation will specify the process for establishment and operational standards to address those differences.

The **Director** stated that in July 2012, the first Rangeland Fire Protection Association was formed in Elmore County. The Mountain Home Rangeland Fire Protection Association entered into an agreement with the Director of IDL to take initial attack suppression action on range fires. This was the culmination of several years of discussion between the local ranchers, Bureau of Land Management (BLM) and IDL in search of a process that would enable local ranchers to engage in suppression of range fires while ensuring fire fighter safety.

IDL's staff recognized that while the Director was given authority in statute to enter into agreements with such associations, the statutory framework for establishment and operation specifically addresses Timber Protection Associations which differ considerably from Rangeland Fire Protection Associations. Additional statutory language is needed to address the distinct differences.

Director Schultz cited the reasons for change. The Timber Protective Associations receive funds from landowner assessments, employ personnel and purchase equipment for the primary purpose of providing wildland fire protection to those paying an assessment. Rangeland Fire Protection Associations are comprised of volunteers using equipment from their private ranching operations to provide quick initial attack response to threatening range fires on lands owned by their members, or on lands they are authorized to protect through mutual aid agreements. Range Protective Associations are funded solely by membership dues.

This proposed legislation requires rangeland owners wishing to establish a Rangeland Fire Protection Association to petition the Director demonstrating adequate:

- legal status of the association;
- liability insurance coverage;
- governing or management structure; and
- financial ability to form a Rangeland Fire Protection Association.

Through agreement with the Director of IDL, the Association assures that their membership has basic fire suppression training, makes use of personal protective equipment consistent with the standards of the fire community, has compatible communications with adjoining fire suppression organizations and has required liability insurance coverage.

Additionally, this legislation requires the Director to review and inspect the Association annually for the following:

- governing and managing structure of the association;
- adequacy of liability insurance; and
- training of all association personnel.

That concluded the **Director's** testimony.

- TESTIMONY:** **Mr. Wally Butler**, representing the Idaho Farm Bureau, said they are in support of **H 93**.
- MOTION:** **Senator Heider** moved that **H 93** be sent to the floor with a **do pass** recommendation. **Senator Tippetts** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor.
- REQUEST:** **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, asked that **RS 22152**, **RS 22156**, and **H 130** be held until a later date. **Chairman Pearce** approved the request.
- H 128** **Mr. Semanko** presented **H 128**. He said this legislation changes the limitation on liens for delinquent canal company assessments from two years to three years, in order to make it consistent with the existing lien timeline for irrigation districts. He indicated that more consistency was needed and that areas that are urbanized are not familiar with the procedure.
- MOTION:** **Senator Tippetts** moved that **H 128** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Heider** will be the sponsor.
- H 129** **Mr. Semanko** presented **H 129**. This legislation relates to irrigation districts and it changes the rate of interest to be paid for delinquent assessments at the time of redemption of land from eight percent per annum to one percent per month. This change makes the rate of interest in the redemption provision of Section 43-712, Idaho Code consistent with the rate of interest in the delinquency provision of Section 43-708, Idaho Code.
- TESTIMONY:** **Mr. Daren Coon**, secretary-treasurer of the Nampa-Meridian Irrigation District testified in support of this bill.
- MOTION:** **Senator Cameron** moved that **H 129** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Cameron** will be the sponsor.

H 132

Mr. Jeremy Chou of Givens Pursley presented **H 132**. This bill has to do with forest and range fires. It clarifies that when a fire is caused by an unintentional negligent act, the damages claimed by such forest and range owners are limited to reasonable costs for fire suppression and actual and objectively ascertainable loss. In the past, large forest and rangeland owners, such as the federal government, have sued and have received unreasonable and speculative intangible environmental damages and double recovery.

TESTIMONY:

Mr. Jim Riley, President of Riley and Associates, offered an explanation of the causes of fires and the way they burn and added that federal lands are in a sad state of management and are unhealthy. He stated that this legislation is important not only from a legal perspective, but from a very practical perspective. **Mr. Riley** encouraged the committee to pass this legislation.

TESTIMONY:

Mr. Will Hart, representing Idaho Consumer Utilities Association, said they support this legislation. The Association has 150,000 customers in rural areas across the state of Idaho. Ninety-six percent of their power comes from the Bonneville Power Administration. They have spent considerable time and money maintaining their transmission lines, equipment, tree and brush clearing in designated right-of-ways, and other maintenance to help prevent fire. **Mr. Hart** said that **H 132** forces restraint of the federal agencies in the state of Idaho and the Association strongly supports this legislation.

WRITTEN TESTIMONY:

Mr. Dennis Tanikuni submitted written testimony. (See Attachment 3). He stated that he is a registered lobbyist for the Idaho Farm Bureau Federation and they are in support of **H 132**. This bill limits civil damages to actual damages for range and forest fires. A large number of forest and rangeland owners are among their 14,500 producer members. They think this bill can protect them from intangible damages should fires escape from their land and damage their neighbor's property.

WRITTEN TESTIMONY:

Mr. Mark J. Benson, Vice President of Public Affairs for the Potlatch Corporation, submitted a letter of support for **H 132**. (See Attachment 4). Taken from the text of the letter are the following statements: "Our timber assets are the source of significant economic stimulus here in Idaho and affect the livelihood of thousands of people. As forest managers, we are keenly aware of the risks of fire in the Inland West. We are confident that fire prevention and suppression measures in Idaho are excellent; however, we are also aware that fires can spread unexpectedly. **House Bill 132** is a common sense piece of legislation that allows reasonableness to prevail when assessing the damages of a fire that spreads from one landowner to another."

MOTION:

Senator Brackett moved that **H 132** be sent to the floor with a **do pass** recommendation. **Senator Lacey** seconded the motion. The motion carried by **unanimous voice vote**. **Chairman Pearce** will be the sponsor.

ADJOURNED:

Chairman Pearce adjourned the meeting at 2:52 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 04, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:37 p.m. and apologized for the delay. The delay was caused by the festivities of the dedication of the "Abraham Lincoln Auditorium".

MOTION: **Senator Brackett** moved that the minutes of February 20 be approved. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**.

RS 22152 **Mr. Norm Semanko**, Executive Director of the Idaho Water Users Association (IWUA), presented **RS 22152**. He said it would authorize water districts to use available water district funds to increase the salaries of water district employees, without an impact on the state general fund.

UNANIMOUS CONSENT: **Chairman Pearce** asked for unanimous consent to send **RS 22152** to a privileged committee for a print hearing. There were no objections.

RS 22154 **Mr. Semanko** presented **RS 22154**. This legislation creates a process and procedures for allowing certain, limited types of irrigation districts to be partitioned into more than one irrigation district.

UNANIMOUS CONSENT: **Chairman Pearce** asked for unanimous consent to send **RS 22154** to a privileged committee for a print hearing. There were no objections.

RS 22156 **Mr. Semanko** presented **RS 22156**. This legislation provides clarification regarding the persons and business entities that are allowed to vote in irrigation district elections.

UNANIMOUS CONSENT: **Chairman Pearce** asked for unanimous consent to send **RS 22156** to a privileged committee for a print hearing. There were no objections.

The **Chairman** announced that the RSs would be sent to the Senate State Affairs Committee for a print hearing.

H 130 **Mr. Semanko** presented **H 130** on behalf of the water districts. With land being developed into housing subdivisions, it is sometimes difficult for the public to know which district they reside in and the laws pertaining to holding office in those districts. This legislation is designed to ensure that candidates seeking election to the office of director of an irrigation district are qualified to hold office. It also revises and clarifies the dates on which the irrigation district election returns are to be canvassed, the oath administered, and the director-elect is to take office, thereby reducing costs associated with holding additional board meetings for those purposes.

Mr. Semanko suggested that **H 130** be sent to the amending order and he presented to the Committee an amendment to the bill.

TESTIMONY: **Mr. Dan Steenson**, an attorney for the Nampa-Meridian Irrigation District, testified in support of **H 130**.

TESTIMONY: **Mr. Daren Coon**, secretary-treasurer for the Nampa-Meridian Irrigation District, said they also support this legislation.

MOTION: **Senator Tippetts** moved that **H 130** be sent to the 14th Order of business - the amending order. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Tippetts** will be the sponsor.

Chairman Bair asked that Senator Tippetts and Mr. Semanko work together on the amendment for **H 130**.

H 131 Presenting this legislation, **H 131**, was **Senator Thayn**. He stated that it has to do with developing water rights. It would provide water permit holders the opportunity to recoup development time lost due to delays caused by state, county, city or other local government's permitting or administrative actions related to the permit holder's land or water development efforts. It would also enable the Idaho Department of Water Resources (IDWR) to provide water permit holders longer extension periods for larger water right permits upon application and sufficient showing of good cause.

TESTIMONY: Testifying was **Mr. Andy Waldera**, representing Mr. Jones of the Rim Fire Ranch, who helped to write this legislation. He stated that they worked with IWUA, IDWR and the Idaho Farm Bureau to come up with a bill to help address some issues that are not covered by current code sections. Due to complications and circumstances beyond his control, Mr. Jones was delayed in developing his water right. Instead of the one-time five year extension, the proposal is a one-time extension up to ten years, providing one meets certain criteria.

TESTIMONY: **Mr. Jeff Peppersach**, who is with IDWR, said they were grateful to work with Mr. Waldera on this legislation and it gave them the opportunity to clarify some language. IDWR is in support of **H 131**.

TESTIMONY: **Mr. Lynn Tominaga** represents the Idaho Ground Water Appropriators and they are in support of this legislation. They feel it will be a fair process.

Vice Chairman Bair asked why was the time lengthened for the permitting, rather than trying to expedite the process. **Mr. Tominaga** replied that it would be difficult to get all government entities together and it would require going through different sections of code to do that.

Senator Thayn closed the discussion by stating that Mr. Jones and others have spent a lot of time trying to develop their water rights and it seems a shame to have it go away because of running out of time, especially when a good faith effort has been made.

MOTION: **Vice Chairman Bair** moved to send **H 131** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Brackett**. The motion carried by **unanimous voice vote**. **Senator Thayn** will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:10 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 11, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 P.M.

GUBERNATORIAL HEARING: Ms. Linda Mitchell has been reappointed to the Lake Pend Oreille Basin Commission and the committee hearing for her was accomplished through a conference call originating from Mexico where she spends part of her time.

Ms. Mitchell thanked the Chairman for allowing the flexibility of a conference call. She provided background information that she feels enables her to be a good candidate for the Basin Commission. **Ms. Mitchell** stated that she spends thousands of hours on Lake Pend Oreille and the Pend Oreille River, as she owns "Pend Oreille Cruises." She has great concerns for Idaho's resource (water).

Senator Siddoway asked her what some of the issues are and how are they solved. **Ms. Mitchell** replied that a critical issue at this time is the conflict with the Kalispel Tribe. Their reservation is located in the state of Washington and they are down river from the Pend Oreille River. They applied in the late summer months to de-water Lake Pend Oreille in order to benefit their fishery downstream. The Basin Commission, nor any other Idaho agencies, were included in the discussion. However, now several agencies are involved, including the Bonneville Power Administration (BPA) and the Corps of Engineers. She has high hopes that the de-watering will not come about.

Another issue is the enormous pressure on the Rathdrum aquifer which is fed by Lake Pend Oreille.

There is concern about aquatic invasive species, especially the quagga mussels. It requires continuous monitoring; however, the Inspection program is doing well and they plan to stay on top of that.

Ms. Mitchell was asked about the other members of the Commission and she said they are very diversified and are knowledgeable.

TESTIMONY: **Senator Keough** thanked Chairman Pearce for arranging the conference call between Ms. Mitchell and the Committee. She said that she supports Ms. Mitchell and that the Basin Commission is very important to their area.

Chairman Pearce thanked Ms. Mitchell for her service to the Basin Commission and said the Committee would vote regarding her reappointment at their next meeting. He said the next order of business is to approve some minutes.

- MOTION:** **Senator Heider** moved that the minutes of February 25 be approved. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**.
- MOTION:** **Senator Siddoway** moved that the minutes of February 27 be approved. **Senator Tippetts** seconded the motion. The motion carried by **unanimous voice vote**.
- MOTION:** **Senator Lacey** moved that the minutes of March 4 be approved. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**.
- Chairman Pearce** called on Representative Marc Gibbs to present **HJM 1**.
- HJM 1** **Representative Gibbs** said this Joint Memorial is to request that Congress urge the Secretary of Agriculture and the Chief of the United States Forest Service to reopen the Frank Church River of No Return Wilderness trail system for public use. Numerous large fires have resulted in tremendous damage and destruction to the watersheds, streams, wildlife habitat, scenic values, recreational use, historic structures, public access and safety, to name just a few. Hundreds of miles of trails have been severely damaged, blocked, rendered unsafe for travel or simply wiped out by fire, and the continuing destructive aftermath of blowdown, washouts and landslides have not been opened, cleared, repaired or replaced. The Joint Memorial declares the Frank Church River of No Return Wilderness and the adjacent national forest lands to be a Natural Resources Disaster Area. **Representative Gibbs** said he is not advocating for change, just wants Congress to live up to its agreement.
- TESTIMONY:** **Mr. John Robison**, Public Lands Director, Idaho Conservation League, testified in opposition to **HJM 1**. He said it is not correct by calling the Frank Church River of No Return Wilderness area a natural disaster area and it will do more harm than good. He agreed that the problem of trail maintenance is real, but the proposed solution does not help the cause. **Mr. Robison** said there needs to be a clear call to action for local communities, user groups and agency personnel to come together and get work done on the ground. A copy of his complete testimony is on file. (See Attachment 1).
- TESTIMONY:** **Mr. John Burns**, retired supervisor of the Salmon National Forest and representative of the Salmon River Chapter, Back Country Horsemen of Idaho, testified in favor of **HJM 1**. He was with the Forest Service for 33 years and he stated that the Forest Service has not met or anticipated meeting the requirement of the law, which states in Section 5 (b) of the Central Idaho Wilderness Act (CIWA) of 1980, "The Secretary shall, to the maximum extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails within and adjacent to the wilderness on at least an annual basis." The intent of the Congress is also expressed in Report 96-414, House Report 96-838 and Conference Report 96-1126.
- Mr. Burns** further stated that the Memorial urges that prompt emphasis and priority be placed on long overdue actions by the Forest Service to address those conditions, and prevent further cumulative loss of the unique values in this Wilderness. It does not urge increased appropriations or changes in laws or regulations. The solutions lie within the existing authorities available to the Secretary and Chief, but firm and explicit leadership is needed. The Frank Church River of No Return Wilderness consists of 2.25 million acres and 2,500 miles of trails, as well as two world class rivers, the Salmon River Canyon and the Middle Fork of the Salmon. In the 32 years following passage of CIWA, the requirement of the Act has not been met. Trail maintenance has steadily declined and is now at a crisis point.

In closing, **Mr. Burns** said that the Frank Church River of No Return Wilderness is the largest in the lower 48 states and has many unique attributes. It should be managed as the flagship of the Wilderness System, an example of outstanding stewardship through common sense application of the principles expressed in the Wilderness Act of 1964 and the Central Idaho Wilderness Act of 1980. Unfortunately, that has not occurred, and will not unless the Secretary and Chief take a strong hand in the current crisis. A copy of Mr. Burns' testimony is on file. (See Attachment 2).

TESTIMONY: **Ms. Kiere Schroeder**, manager of the Sulphur Creek Ranch, also testified in favor of **HJM 1**. She stated that the Idaho Wilderness is a natural getaway and should be a source of pride. **Ms. Schroeder** feels there is a need to be more aggressive.

TESTIMONY: **Mr. Tom Demorest**, owner of the Diamond D Ranch for 51 years, expressed frustration with the Forest Service and the lack of maintenance on the trail system. He strongly supports **HJM1**.

TESTIMONY: **Mr. Mike Rust**, Flying Resort Ranches, also spoke about the trail system being in great need of repair. He supports **HJM 1**.

TESTIMONY: **Mr. Grant Simonds**, Executive Director, Idaho Outfitters and Guides Association, said that **HJM 1** emphasizes the current situation with trail conditions not only in the Frank, but elsewhere across Idaho and we need to find ways to stem the tide of loss of access while continuing to emphasize collaboration among all interested. IOGA supports the message in **HJM 1**. A copy of his testimony is on file. (See Attachment 3).

TESTIMONY: **Mr. Andy Brunelle**, Liaison for the United States Forest Service, provided background information on the Frank Church River of No Return Wilderness area trails. The Middle Fork District has 835.3 miles of trails and maintained 139 miles, plus some airstrips as part of their duty. The North Fork District has 453 miles of trails and maintained 169 miles. The Krassel District has 659.7 miles of trails and maintained 412 miles.

Mr. Brunelle stated that several groups have helped with trail maintenance. A partial list is as follows:

Back Country Horsemen (several chapters);
Selway Bitterroot - Frank Church Foundation;
Student Conservation Association;
Northwest Youth Corps; and
Idaho Trails Association.

When asked about the wording - "a natural disaster area" in the Memorial, **Mr. Burnelle** said that it is up to the legislature for the language it chooses.

TESTIMONY: **Mr. ValDean Schroeder**, guide at the Sulphur Creek Ranch, testified in support of **HJM 1**.

TESTIMONY: **Mr. Phil Ryan**, Public Lands Liaison for Back Country Horsemen (BCH), testified in support of **HJM 1**. He said that he has ridden and cleared trails in Idaho's national forests and wildernesses for 35 years. As a member of BCH, he has worked with other volunteer groups to clear the trail systems. A copy of his testimony is on file. (See Attachment 4).

**WRITTEN
TESTIMONY:**

Ms. Tammy Overacker, General Manager of the Flying Resort Ranches, Inc., submitted written testimony in favor of **HJM 1**. She stated that they privately hold property in the Frank Church Wilderness and have a special use permit to operate on Forest Service lands. She represents the corporation, dba Flying B Ranch on the Middle Fork of the Salmon and Root Ranch in the Chamberlain Basin.

She said that since the Central Idaho Wilderness Act of 1980, their areas have been severely affected by wilderness fires that have been managed according to the "let it burn" policy. Their combined areas of operation total approximately 307 square miles. They operate and pay taxes in four different counties of Idaho including: Custer, Idaho, Lemhi and Valley. They also operate on two different Idaho forests: Payette Forest, Krassel Ranger District and Salmon-Challis Forest, Middle Fork Ranger District. **Ms. Overacker** said they pay those forests three percent of their gross sales, forest grazing fees and fees for camp sites.

Ms. Overacker's letter indicated that three-fourths of her area has burned at least once and much of it has burned multiple times. Today, she has about one-third of her forest permitted area that they cannot access due to trail conditions. The "let it burn" policy has failed from a usage standpoint because there is no policy for area rehabilitation following the fire. Effects of fire are a several year rehabilitation program, not just one year. She said that they are being told from forest managers that their cost of trail maintenance is averaging \$2,200 per mile of trail. **Ms. Overacker** said her business is doing what they can and their cost is \$475 per mile. Their cost and time spent would be significantly less if they could use chain saws. The Frank has 2,500 miles of trail and currently the forest service is servicing about 20 percent of the trails system.

Ms. Overacker said that they want to see a heightened awareness to this issue and would like political support from the legislators to change the mindset of forest managers. She stated that they shouldn't be expected to fund that themselves and fight the battle they are fighting. They are overwhelmed with paperwork and restrictions, which increases their costs.

Ms. Overacker stated that they are not looking for or expecting federal natural disaster money - they are simply looking for a more efficient use of the money currently involved and time spent by working groups.

A copy of Ms. Overacker's letter is on file. (See Attachment 5).

**WRITTEN
TESTIMONY:**

Mr. Steve Adams, Executive Director, Youth Employment Program, Inc., asked that his letter be given to the committee members, as well as acknowledged in the minutes. The Youth Employment Program is committed to working with trail user groups and the various state and federal agencies to restore and maintain the access to public lands. They feel strongly that the youth of Idaho have a large stake in this issue, not only as potential job opportunities, but as the future users and stewards of our public lands. He supports **HJM 1**. (See Attachment 6).

Mr. Adams included with his letter, several letters of support for **HJM 1**, signed by **Max Lohmeyer**, Coordinator for the Youth Employment Program in Salmon; **Tammy Stringham**, Executive Director of Lemhi County Economic Development Association; and **John Jakovac**, Chairman for the Office of the County Commissioners, Salmon.

MOTION:

Senator Siddoway moved that **HJM 1** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Siddoway** will be the sponsor.

HCR 14

Representative Gibbs presented **HCR 14**, which is a House Concurrent Resolution rejecting Docket No. 13-0108-1204, Rules Governing the Taking of Big Game Animals in the State of Idaho. This Committee did not reject this docket.

Ms. Sharon Kiefer, Idaho Department of Fish and Game (IDFG), was asked to review the rule for the committee members. She stated that the rule is on page 55 of the rule book. It revises the Motorized Hunting Rule (MHR) as applied to hunting big game. The MHR is a tool to reduce vulnerability of big game to balance hunting opportunity with meeting herd objectives and hunter expectations. One way to reduce vulnerability, particularly of large bucks and bulls, is to reduce accessibility.

The MHR only affects hunters. Hunters, while hunting, are restricted to using motorized vehicles on established roadways capable of travel by a full-sized automobile. No other motorized vehicle user is restricted. There were three changes in this docket and they include:

- Added definitions of motorized vehicle and hunter to add clarity to the rule;
- Designation of the motorized restriction for hunters by Hunt Unit and date, rather than by designating each individual hunt;
- Hunt Unit 39 was dropped from the MHR.

There was a discussion regarding hunt units, but due to the time, **Chairman Pearce** said that **HCR 14**, along with **S 1155**, **S 1156** and **S 1157** would be carried over to Wednesday, March 13.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 3:05 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 13, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:35 P./M.

GUBERNATORIAL APPOINTMENT: The first order of business was to consider the appointment of Linda Mitchell to the Lake Pend Oreille Basin Commission. **Senator Heider** moved to send the gubernatorial appointment of Linda Mitchell to the Lake Pend Oreille Basin Commission to the floor with recommendation that she be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Keough** will be the sponsor.

HCR 14 **Chairman Pearce** said this legislation, **HCR 14**, was discussed on Monday and it is now properly before the Committee.

MOTION: **Senator Siddoway** moved that **HCR 14** be held in Committee. **Senator Bair** seconded the motion.

SUBSTITUTE MOTION: **Senator Cameron** made a substitute motion. He moved that **HCR 14** be sent to the floor with a **do pass** recommendation. **Senator Lacey** seconded the motion.

The **Chairman** requested a **roll call vote**. Voting aye on the substitute motion were Senators Lacey, Tippetts, Brackett, Cameron, and Chairman Pearce (5). Voting nay were Senators Stennett, Heider, Siddoway, and Vice Chairman Bair (4). The motion carried. **Senator Cameron** will be the sponsor.

S 1155 **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association (IWUA), presented **S 1155**. This legislation would authorize water districts to utilize available water district funds to increase the salaries of water district employees, without any impact on the state general fund. Districts that employ state employees are not allowed to increase their wages, but this legislation would accomplish that.

WRITTEN TESTIMONY: **Mr. Lyle Swank**, Watermaster of Water District 1 (WD1), Idaho Falls, submitted written testimony in support of **S 1155**. His reasons are as follows:

- 1) The language change proposed by **S 1155** was supported by a sub-committee of the Committee of Nine.
- 2) It was then supported by the full Committee of Nine.
- 3) WD1 water users supported it at their annual meeting.
- 4) The reelected watermaster spoke in favor of it.
- 5) The IWUA also is supportive.

Some members of the Committee questioned the ramifications (if any) of increasing a state employee's wages. It was suggested that the employee could resign from the state position, or the employee could be reclassified for a higher level of pay.

MOTION: **Senator Tippetts** moved that **S 1155** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion.

The **Chairman** requested a **roll call vote**. Voting aye on the motion were Senators Tippetts, Heider, Brackett, Siddoway, Vice Chairman Bair and Chairman Pearce (6). Voting nay were Senators Lacey, Stennett, and Cameron (3). **Senator Tippetts** will be the sponsor.

S 1156 **Mr. Semanko** presented **S 1156**. He stated that this legislation creates a process and procedures for allowing certain, limited types of irrigation districts to be partitioned into more than one irrigation district. It would also provide for a joint board of control.

MOTION: **Senator Stennett** moved that **S 1156** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Stennett** will be the sponsor.

S 1157 **Mr. Semanko** stated that this legislation provides clarification regarding the persons and business entities that are allowed to vote in irrigation district elections. Certain limited liability companies (LLC) shall have the same rights and privileges as do natural persons.

MOTION: **Vice Chairman Bair** moved that **S 1157** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:25 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 18, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:35 P.M.

**ANNOUNCE-
MENT:** He welcomed the guests in attendance and announced that the interviews of the gubernatorial appointees will take place. One candidate will be interviewed via a conference call, scheduled for 2 P.M. The **Chairman** said due to the end of the session approaching, voting will be held after each interview today, rather than waiting until the next meeting. Before the interviews are started, some committee business needs taking care of.

MOTION: **Senator Siddoway** moved that the minutes of March 11 be approved. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**.

MOTION: **Senator Lacey** moved that the minutes of March 13 be approved. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**.

HEARING: **Mr. Ford Elsaesser** was the first to address the committee. He is being reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2012 and expiring July 24, 2015. **Mr. Elsaesser** is a lawyer in Sandpoint, has served on many civic organizations and is involved in community service. He has testified numerous times before Congress on bankruptcy issues and has also spoken at the FBI Academy.

Mr. Elsaesser expressed pleasure to come before the committee and thanked Senator Keough and Representative Eskridge for attending the hearing and being supportive. He stated that he has been the chairman of this Commission since its inception. Their charter is to be an advisory commission and their goal is to look after water quality and water quantity in Priest Lake, Pend Oreille Lake and the tributaries that flow into them. There are a lot of demands on Pend Oreille's water - more all the time as compared to the past.

Recent demands are from Bonneville and downstream power generators to vary the lake level during the winter, which traditionally, has never been done. More recently, quiet negotiations have been going on with the Kalispel Indian Tribe, which is on the river downstream from the Albeni Falls Dam near Priest River. **Mr. Elsaesser** said the Tribe has been talking about using more stream flow in the late summer and early fall, which has "set everyone's alarm bells off."

Mr. Elsaesser said that between Priest Lake and Lake Pend Oreille, they have approximately two billion dollars of assessed valuation. Recreation on the lakes is so important to their economy and the idea of having a variable lake level in the summer is a very daunting possibility. **Mr. Elsaesser** indicated that they don't have any legal authority, but they are a party to the system operating requests of the dam and they work in close conjunction with the Idaho Department of Fish and Game (IDFG) and the Governor's office.

The Commission has between four and six meetings a year to stay on top of issues. Besides the threat of water quality and quantity, other issues are the milfoil infestation and check points for invasive species, which Representative Anderson has been involved in. They pose a huge risk to the lakes in the North as lake conditions are ideal for the quagga and zebra mussels.

In closing, **Mr. Elsaesser** said his remarks are a general overview of what the Commission does and also stated that they are all volunteers from different parts of the community, from all walks of life and are united in protecting Priest River, Priest Lake, Pend Oreille River, Pend Oreille Lake and the Clark Fork.

Mr. Elsaesser was asked about milfoil in the lakes and he replied that it is a constant struggle to try to control it. A chemical is used and seems to be the most effective; however, divers go down and pick it to help eradicate it.

MOTION:

Vice Chairman Bair moved to send the gubernatorial appointment of Ford Elsaesser to the Lake Pend Oreille Basin Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Keough** will be the sponsor.

HEARING:

Mr. Marc Brinkmeyer is being reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing June 21, 2012 and expiring July 24, 2014.

He is the product of German immigrants who left their farms in the 1890's and migrated to the United States. As a youth, he learned to work hard and since has maintained a strong work ethic, instilled by his father and older family members. **Mr. Brinkmeyer** put himself through college, starting with engineering, but changed to finance and accounting. He stated that the need for formal organized forms of education are needed, but the practical education you receive from creating and growing your own business is the most valuable. He merged his business, Riley Creek Lumber Company with the Bennett Forest Industries to form a new entity, the Idaho Forest Group.

Mr. Brinkmeyer has served on various commissions and councils, either as a board member or chairman, and has also represented the United States in the European Wood Promotion Network. Over the years, **Mr. Brinkmeyer** said he has been actively involved in church, as well as community activities.

The Governor appointed Mr. Brinkmeyer to the Pend Oreille Basin Lakes Commission and this Commission oversees issues relative to water resources, interaction with the Bonneville Power Administration as to water levels, aquatic plants, and interaction with IDFG on fisheries issues. **Mr. Brinkmeyer** said their agenda varies - from milfoil to the Corps of Engineers - and they respond accordingly. The issue with the Kalispel Tribe has been an eye-opener. Two months ago, Mr. Brinkmeyer had his first visit with the Tribe and had an excellent dialogue with them.

Mr. Brinkmeyer was asked what interests the Indian Tribes have in the lake and what their concerns are. The response was the Commission wants to learn what the Tribe is up to, both in depth and endeavor, and they have multiple interests. The Tribe is interested in the fisheries on the lower part of the Pend Oreille River because of the dam. There is not a fish ladder and the Tribe is trying to work through the issues. Another question was posed to Mr. Brinkmeyer asking him if he thought it would be beneficial to have a member of the Tribe to be on the Commission. **Mr. Brinkmeyer** said a quick answer would be yes and that he was pleased with what he saw and how welcomed they were received.

MOTION:

Senator Brackett moved to send the gubernatorial appointment of Marc Brinkmeyer to the Lake Pend Oreille Basin Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Tippets** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor.

AT EASE:

Chairman Pearce said the conference call is to be originated by Brent Baker at 2 P.M. and it is now 1:57 P.M. He said they would go at ease until the phone rings.

HEARING:

At precisely 2 P.M., **Mr. Brent Baker** called. The **Chairman** called the meeting to order. **Mr. Baker** thanked the Chairman for allowing him to be interviewed by phone, rather than in person, as he has been working on an international project in British Columbia, Canada. Mr. Baker is being reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing March 30, 2012 and expiring July 24, 2014.

Mr. Baker said that he feels the Commission is more effective than it was first thought to be when it was created and in part, it is due to Chairman Elsaesser's leadership. He also stated that Lake Pend Oreille is the "heart and soul" of their economy and environment and they have achieved a balance between the environment and recreation. The lake is a natural lake, and they want to protect it and have control over it.

Mr. Baker was asked about building along the lake front, the zoning laws and any other issues that a developer faces. **Mr. Baker** replied that he has been in the housing business for a number of years on the lake and some of the challenges have been the regulatory issues that protect the lake. He said he is comfortable with the level of decision-making that has occurred because in the long run, it gives value to added shoreline protection and it pays off.

Chairman Pearce inquired as to what the biggest challenges are that they are facing as a Commission. **Mr. Baker** said he feels there are four major issues. They are: 1) invasive species (milfoil) and aquatic species (quagga and zebra mussels); 2) restoration of the two deltas; enormous erosion since the establishment and operation of the dams (Albeni Falls and Cabinet Gorge); 3) establishment of the fisheries; and 4) more input on the water levels of the lake.

There was some discussion regarding the septic systems around the lake as to what is in use now, what is needed, grandfather rights and property rights. **Mr. Baker** said if improvements are to be made, the big challenge would be funding and consolidation. He would like to see grant money available to stimulate those who need to upgrade their systems.

Chairman Pearce thanked Mr. Baker for his service on the Lake Commission and for calling in for his interview. **Mr. Baker** replied by thanking the Chairman for allowing him to call in and said that calling was not his first choice.

MOTION: **Senator Heider** moved to send the gubernatorial appointment of Brent Baker to the Lake Pend Oreille Basin Commission to the floor with a recommendation that he be confirmed by the Senate. **Vice Chairman Bair** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will be the sponsor.

ADJOURNED: **Chairman Pearce** announced that until he receives bills from the House, there is no more business to come before the Committee. There may or may not be a meeting on Wednesday. He then adjourned the meeting at 2:20 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 25, 2013

TIME: 1:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:00 P.M. He announced that the meeting can only last until 2 P.M., due to another committee meeting following at that time. He welcomed Representative Boyle who will present **H 278**.

H 278 **Representative Boyle** provided a five page handout (Attachment #1) to help explain **H 278**. Three of the pages are letters of support from the Idaho Farm Bureau Federation, the Idaho Wool Growers Association and the Food Producers of Idaho, Inc., and the other two are charts showing the actual expenditures of the Expendable Big Game Depredation Fund Distribution for fiscal year 2006 to fiscal year 2012.

What this bill does is to remove the Access Yes! program from the depredation program and move it to the Idaho Department of Fish and Game's (IDFG) land acquisition leasing and easements account. This account receives \$2.00 from each fishing and hunting license sold. She stated that the purpose of this legislation is to provide additional funding for the Animal Damage Control Board (ADC) dealing with depredating wildlife.

The reintroduction of wolves has resulted in an increase in depredation on wildlife and livestock. Requests for assistance from ADC have increased, while funding from the federal level has decreased.

Senator Stennett inquired if anything else would be impacted besides Access Yes! **Representative Boyle** said it was her understanding that nothing else would be impacted.

Senator Tippetts asked for more clarification regarding the ADC Board.

Representative Boyle said there are five boards in the state and they are made up of livestock and sheep producers. The money from ADC goes to Wildlife Services who contract to kill the predators. **Senator Tippetts** expressed his view on the Statement of Purpose (SOP), saying he felt it was "woefully inadequate." **Representative Boyle** replied that she was instructed to write a SOP as brief as possible.

TESTIMONY: **Ms. Sharon Kiefer**, Deputy Director of Idaho Fish and Game (IDFG), testified that the IDFG Commissioners are not in support of **H 278**. She said that "this bill's primary action affects the fish and game expendable big game depredation fund, the fish and game set-aside funding for sportsmen's access, and funding for the animal damage control account. Each year, \$200,000 from the fish and game account (license and tag money) is transferred into the depredation fund as are interest earnings from the nonexpendable big game depredation fund. Monies in the depredation fund are for compensation payments to eligible landowner compensation claims for damages from wildlife as directed by Idaho Code 36-1108, 1109, and 1110." **Ms. Kiefer** went on to say "the depredation fund also provides for two other purposes. At the close of each fiscal year, any unexpended and unencumbered balance in the depredation fund that exceeds \$750,000 shall be transferred. First, up to \$100,000 of the 'overage' over \$750,000 is transferred to the fish and game set-aside account referenced in 36-111(b), earmarked for sportsmen access programs. If there is 'overage' in excess of \$100,000 the remainder of the excess is transferred to the Animal Damage Control account. ADC also gets \$100,000 from the fish and game account annually that is separate from any spillover from the depredation fund. This animal damage control account is for the control of predatory animals and birds. Implementation using the funds transferred from IDFG must follow fish and game commission direction on action regarding predatory animals or birds. The animal damage control board does not have latitude to use fish and game funds in the animal damage control account at their discretion."

Ms. Kiefer provided the recent financial history (Attachment #2) for the depredation fund, including the transfers according to I.C. 36-115(c), which directs the transfer for sportsman access and the animal damage control account.

Ms. Kiefer said that "while there might have been opportunity to rebalance financial tools to meet both priorities, this bill was not vetted with the Fish and Game Commission nor the sportsmen whose money is being asked to fund the activity. In fact, the fiscal note does not even mention effects to the fish and game set-aside account for sportsmen's access or the animal damage control account. Because of the lack of collaboration, the Fish and Game Commission does not view this bill as a balanced approach to meet multiple, important priorities and they do not support his bill. However, the Commission, the Fish and Game Department, and the Idaho Department of Agriculture recognize that there are both wolf depredation and compensation issues to be solved that will require financial resources that are sufficient and consistent. The directors of both agencies have tasked the Fish and Game Advisory Committee to work with involved stakeholders, including legislators, to craft solutions for executive and legislative consideration." (A copy of Ms. Kiefer's complete testimony is included in Attachment #2).

TESTIMONY: **Mr. Wally Butler**, Range and Livestock Specialist for the Idaho Farm Bureau, testified in support of **H 278**. He said there are some issues they would like to see fixed, and also that it should be a federal issue with the "feds" stepping up to the plate and taking care of the problem that they thrust upon us.

TESTIMONY: **Mr. Stan Boyd** stated that he is representing the Idaho Cattle Association and the Idaho Wool Growers and both organizations support the bill. Sixteen years ago, there were no wolves in the state and today, the number one predator on sheep and cattle are wolves. The federal dollars have been cut, as well as other funds. He feels that the Access Yes! program is taken care of and is not being left to "hang out to dry".

CONFLICT OF INTEREST: **Senator Siddoway** declared a conflict of interest saying that he hates wolves and the bill could be beneficial to his operation.

MOTION: **Senator Heider** moved that **H 278** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by a **majority voice vote**. Voting no and asking to be recorded were Senators Stennett and Lacey. **Chairman Pearce** will be the sponsor of this bill.

H 271 **Mr. Roger Batt**, Executive Director of the Idaho Heartland Coalition, presented **H 271**. He said the Coalition's membership is made up of numerous agricultural producers and agricultural organizations across the state.

This bill amends sections of title 39, chapter 36 that deals specifically when the Department of Environmental Quality (DEQ) designates, revises, or assesses Beneficial Uses for Idaho Water Bodies. Some examples of Beneficial Uses may be that a water body supports recreation, or maybe it supports certain aquatic life. There have been several technical corrections made from pages 5 -7. Some of these sections of code were written a long time ago and as a result have been restructured for easier readability.

The new amendments to the statute they are asking to be made are as follows:

- Mandating that DEQ consult with stakeholders when designating, revising, or assessing Beneficial Uses for Idaho Water Bodies.
- Consider hydrologic or atmospheric conditions when designating, revising, or assessing Beneficial Uses for Idaho Water Bodies.

Mr. Batt stated that it is important to relay that DEQ and the Coalition worked together and drafted this legislation, which they both support. The Coalition also worked with Mr. Barry Burnell and Mr. Doug Conde. He also said that there are no fiscal impacts to the General Fund. A copy of Mr. Batt's full testimony is on file (Attachment #3).

MOTION: **Senator Siddoway** moved that **H 271** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Bair** will be the sponsor of the bill.

MOTION: **Senator Brackett** moved that the minutes of March 18 be approved. **Senator Tippetts** seconded the motion. The motion carried by **unanimous voice vote**.

PAGE RECOGNITION: **Chairman Pearce** asked the Committee's Page, Kyra Perron, to come forward so that she could be honored for doing such a good job the last half of the session. He presented her with a letter of recommendation, signed by all the Committee members, and a Senate watch. **Senator Stennett** said it was a pleasure to sponsor Kyra.

Kyra thanked the Chairman and the Committee and said that she enjoyed working here and was reluctant to leave. She plans to go to BYU and perhaps become a math teacher, as math is her favorite subject.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Thursday, March 28, 2013

TIME: 2:15 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Brackett, Heider, Tippetts and Lacey

ABSENT/EXCUSED: Senators Siddoway and Stennett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 2:15 P.M. He announced that the meeting would be brief as the Senate will reconvene at 2:30 P.M.

Senators Siddoway and Stennett are excused today as they had a conflict of time due to another meeting.

MOTION: **Vice Chairman Bair** moved that the minutes of March 25 be approved. **Senator Cameron** seconded the motion. The motion carried by **unanimous voice vote**.

HCR 31 This legislation would authorize the Legislative Council to continue an interim committee to undertake studies of natural resource issues, particularly those water resources of the state. There would be no additional impact upon the state general fund as a result of the resolution.

MOTION: **Vice Chairman Bair** moved that **HCR 31** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **unanimous voice vote**. **Vice Chairman Bair** will sponsor the legislation.

ANNOUNCEMENT: **Chairman Pearce** announced that any further meetings would be subject to call of the Chair.

ADJOURNED: He adjourned the meeting at 2:20 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary